Reference Paper for the 70th Anniversary of the 1951 Refugee Convention

The role of 'complementary pathways' in refugee protection

Dr Tamara Wood
Andrew & Renata Kaldor Centre for International Refugee Law, UNSW Sydney

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Abstract:

In the 2018 Global Compact on Refugees, Members States of the General Assembly committed to increase the availability and predictability of 'complementary pathways' to protection and solutions for refugees. Such pathways include family reunification, private or community sponsorship, humanitarian admission programmes, and education and labour mobility opportunities. This report takes a closer at the nature and types of complementary pathways that exist, and the role they do, and could, play within the international refugee protection regime. It focuses on the following three questions: 1) What are complementary pathways? 2) Why should complementary pathways be expanded? 3) How should complementary pathways be developed and implemented?

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List of acronyms

CEDEFOP	European Centre for the Development of Vocational Training
ECHR	European Convention on Human Rights
EU	European Union
FCEI	Federation of Evangelical Churches in Italy
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IELTS	International English Language Testing System
ICU	International Christian University
ILO	International Labour Organization
IOM	International Organization for Migration
IRAP	International Refugee Assistance Project
JAR	Japan Association for Refugees
JICUF	Japan International Christian University Foundation
OAU	Organisation of Africa Unity
OECD	Organisation for Economic Co-operation and Development
SDG	Sustainable Development Goal
TBB	Talent Beyond Boundaries
TOEFL	Test of English as a Foreign Language
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WUSC	World University Service of Canada

Executive summary

Introduction

1. In 2018, the United Nations General Assembly adopted the Global Compact on Refugees (Refugee Compact), a non-binding set of political commitments by states to strengthen international responses to refugee movements and increase cooperation and responsibility-sharing in the protection of refugees. One of Refugee Compact's core objectives is to expand access to third country solutions for refugees – opportunities for refugees residing in first countries of asylum, with no prospects of local integration nor return to their country of origin, to gain admission and lasting stay in a third country where they can rebuild their lives. As part of this objective, Members States of the General Assembly committed to increase the availability and predictability of 'complementary pathways' to protection and solutions for refugees, and to ensure that complementary pathways are made available on 'a more systematic, organized, sustainable and gender-responsive basis, [with] appropriate protection safeguards'.

2. The Refugee Compact does not define complementary pathways, but cites a number of current examples, including: family reunification, private or community sponsorship programmes, humanitarian admission programmes, and education and labour mobility opportunities. Complementary pathways such as these have clear benefits for the protection of refugees. They provide an additional alternative to the three traditional durable solutions – return, resettlement and local integration – expanding options for displaced people to re-establish themselves and providing mechanisms for international responsibility-sharing in the protection of refugees. They may have additional benefits for host states, by facilitating the successful integration of refugees within local communities, or enabling governments to address their domestic labour and skills shortages. However, the role of complementary pathways in refugee protection is not entirely straightforward. Access for refugees is often limited, due to a lack of information or their inability to meet onerous administrative criteria. In some cases, complementary pathways may not provide adequate protection safeguards to ensure that refugees have their rights are respected and can pursue their long-term aspirations.

3. The 'Three-Year Strategy on Resettlement and Complementary Pathways' (Three-Year Strategy), published by UNHCR in 2019, sets a goal of two million people to benefit from complementary pathways by 2028. If this goal is to be achieved, and to advance the overall objectives of refugee protection, there is a pressing need to better understand the nature of complementary pathways, and to articulate how states can develop and expand complementary pathways in a way that ensures that they promote, and do not undermine, the international refugee protection regime.

4. This report addresses this need by considering the following three questions:

   ***What* are complementary pathways?**
   ***Why* increase complementary pathways?**
   ***How* should complementary pathways be developed and implemented?**

What are complementary pathways?

5. The Three Year Strategy on Resettlement and Complementary Pathways defines complementary pathways as:

> safe and regulated avenues that complement refugee resettlement and by which refugees may be admitted in a country and have their international protection needs met while they are able to support themselves to potentially reach a sustainable and lasting solution.

6. The most commonly cited examples of complementary pathways for refugees are: family reunification, private or community sponsorship programmes, humanitarian admission programmes, and education and labour mobility opportunities. Complementary pathways commonly operate as standalone mechanisms for refugees' travel and stay in the destination country. However, different types of complementary pathways may also be used in combination – for example, where community sponsorship is used to support refugees accessing education pathways or humanitarian admission programs.

7. Complementary pathways vary significantly, according to both their eligibility criteria and/or their place within the destination country's broader migration programs. For example, access to 'needs-based' complementary pathways, such as humanitarian visas and admission programs, is based on an assessment of a refugee's vulnerability and international protection needs. 'Qualifications-based' pathways, such as education or labour mobility, depend on a refugee having certain educational qualifications, skills or work experience. 'Custom' complementary pathways involve the creation of specific migration and/or visa categories designed to provide admission and stay for refugees (whether based on needs or qualification). Other complementary pathways simply involve refugees accessing regular migration pathways, such as student or skilled worker visas, that are generally available to anyone, though they may require assistance or certain administrative waivers to do so. In fact, the diversity that exists between the various kinds of complementary pathways makes it difficult to identify with clarity what is, or is not, complementary pathway. It raises the question of whether a single definition of 'complementary pathways' is possible or even desirable.

8. In considering the question – *What* are complementary pathways? – this report identifies a number of further issues and questions to be resolved. These require more detailed consideration by UNHCR, states, and other actors engaged in the development and implementation of complementary pathways. They include:

    1. What is the purpose of defining 'complementary pathways'? How might the definition of complementary pathways differ depending on the various purpose/s for which they are defined – for example, to encourage government action, to measure refugees' access or benefits, or to assess states' contributions towards international responsibility-sharing?

    2. What are the common elements of the various different kinds of complementary pathways and what are the differences? How can the categorisation of different kinds of complementary pathways enhance understanding and promote further development of such pathways?

3. How should the needs for clarity and to assess progress towards the expansion of complementary pathways be balanced with the overarching objectives of the Refugee Compact and refugee protection?

Why increase complementary pathways?

9. Complementary pathways are largely intended to address the vast shortfall between the number of refugee resettlement places available each year and the number of refugees in first countries of asylum and for whom other durable solutions, including return or local integration, are not available. This is not the only reason that states should develop and implement complementary pathways, however. In addition to their commitments under the Refugee Compact, a range of other international frameworks support, and should guide, states in the expansion of complementary pathways. These include: the Global Compact for Safe, Orderly and Regular Migration (Migration Compact); the 1951 Convention relating to the Status of Refugees (Refugee Convention); numerous international and regional human rights law instruments, including the ICCPR, ICESCR, the ILO Conventions and regional human rights treaties; and the UN 2030 Agenda for Sustainable Development, including the Sustainable Development Goals (SDGs).

10. Within these relevant normative frameworks, a number of the core objectives of complementary pathways can be identified. These are: to meet the international protection needs of people whose lives and freedoms are at risk; to provide durable solutions to refugees who find themselves in first countries of asylum without access to other durable solutions such as return or resettlement; to achieve self-reliance for refugees by allowing them to re-establish themselves and pursue their own goals and livelihoods; and to promote responsibility-sharing among states in the protection of refugees. In addition, there are a number of other, more subsidiary, objectives that complementary pathways serve. These include: fostering positive public attitudes to refugees amongst host states and communities, by promoting integration and emphasising refugees' skills, experiences and family relationships; addressing domestic labour and skills shortages in destinations countries; promoting broader access to safe, regular and orderly migration; and enhancing equitability in access to international study and work opportunities.

11. Realising the various objectives that complementary pathways can achieve will not always be straightforward, however. Indeed, given the multitude of actors and interests potentially involved in complementary pathways, and the consideration of factors (such as refugees' qualifications or available community support) not directly connected to refugees' international protection needs, this report identifies a number of issues and question that require further attention in order to ensure that complementary pathways ultimately enhance, and do not undermine, the protection of refugees. These include:

    1. What gaps exist between the rights afforded to refugees under international law and the rights afforded to refugees under existing or proposed complementary pathways?

    2. Under what conditions, or in what situations, might the multiple interests and objectives involved in complementary pathways come into tension or conflict?

3. How can protection outcomes for refugees be balanced with the interests of other actors engaged in complementary pathways to generate 'win-win' opportunities for both refugees and destination states?

How should complementary pathways be developed and implemented?

12. In order to ensure that complementary pathways achieve their intended objectives - in particular, the core objectives of refugee protection, durable solutions and international responsibility sharing - and that they uphold states' international commitments and obligations, certain minimum standards are required. Questions regarding the appropriate standards for complementary pathways include: must complementary pathways guarantee refugees a durable solution, such as permanent residence or citizenship? Do temporary migration channels provide sufficient access to protection and durable solutions for refugees who access them? What is the relationship between complementary pathways and asylum - in particular, can complementary pathways provide meaningful solutions for refugees in states lacking effective national asylum systems? How important is formal recognition of refugee status in promoting the objectives of complementary pathways and the integrity of the international protection regime?

13. This report proposes seven key principles or standards against which complementary pathways may be assessed to determine whether, and to what extent, they uphold their objectives, as well as the international commitments and obligations of destination states. According to these principles or standards, complementary pathways should:

- maintain the principle of additionality, by being additional to (and never a replacement for) resettlement and by increasing the overall number of refugees able to access third country solutions;
- adopt clear eligibility criteria, including clear standards and procedures for determining potential beneficiaries' international protection needs;
- facilitate refugees' access to durable solutions, by either directly providing access to permanent solutions, or by ensuring that the rights of refugees are fully respected as they work towards a lasting solution to their displacement;
- preserve the principle of asylum and access to fundamental rights, in particular by upholding the principle of non-refoulement and ensuring that no person is returned to a territory in which his or her life or freedom is threatened;
- provide opportunities to 'scale up', to enable complementary pathways to reach their potential as a tool for protection and solutions on par with (or beyond) that of resettlement;
- incorporate, to the extent possible, mechanisms and procedures that allow refugees to access them independently of assistance by UNHCR or other non-government organisations, while still maintaining sufficient protection guarantees; and

- ensure transparency and accountability at all stages of the process, including with respect to the involvement of private actors, such as employers, universities and civil society organisations.

14. These principles or standards provide a starting point for thinking about how states (and others) should go about developing, implementing and expanding complementary pathways. However, further consideration should be given to exactly what is required under each, and whether any additional standards should apply. In particular, this report identifies the following key issue and question for further discussion:

    1. What standards are required to ensure that complementary pathways uphold their objectives and states' international commitments and obligations? How can the need for 'minimum standards' be balanced with the more progressive development of complementary pathways?

    2. What obligations do non-state actors have in the facilitation of complementary pathways? What is their role in ensuring that complementary pathways meet relevant minimum standards?

    3. How can relevant standards be communicated to states and other actors? What monitoring mechanisms are required to maintain 'quality control' over complementary pathways and ensure that refugees accessing them are fully informed of the potential benefits and/or risks they entail?

Conclusion

15. In conclusion, complementary pathways provide a significant opportunity to enhance refugees' access to protection and durable solutions, and to facilitate international responsibility-sharing in the protection of refugees. They also provide potential benefits to states and communities hosting refugees, helping to address current skill and labour shortages in countries of destination and fostering positive public attitudes to refugees. However, realising these benefits requires clarity in the nature, objectives and minimum standards required of complementary pathways, and clear frameworks for implementation that will ensure that such pathways promote, and do not risk undermining, the international protection regime.

1. Introduction

1.1. Background

In 2018, the United Nations General Assembly adopted the Global Compact on Refugees (Refugee Compact) – a non-binding set of political commitments by states to strengthen international responses to refugee movements and increase cooperation and responsibility-sharing in the protection of refugees.[1] As part of the Refugee Compact, **Members States of the General Assembly committed to increase the availability and predictability of 'complementary pathways' for refugees**[2] and to ensure that complementary pathways 'are made available on a more systematic, organized, sustainable and gender-responsive basis, [and] contain appropriate protection safeguards'.[3]

Complementary pathways are not defined in the Refugee Compact itself, but UNHCR's 'Complementary Pathways for Admission of Refugees to Third Countries: Key Considerations' (Key Considerations) describes them as:

> **safe and regulated avenues that complement refugee resettlement and by which refugees may be admitted in a country and have their international protection needs met while they are able to support themselves to potentially reach a sustainable and lasting solution.[4]**

Existing examples of complementary pathways for refugees include: family reunification programs, community or private sponsorship, humanitarian visas and other humanitarian admission programmes, educational pathways through the grant of scholarships and student visas, and labour mobility opportunities for refugees.[5]

Complementary pathways for refugees contribute towards three of the four overarching objectives of the Refugee Compact, namely: easing pressure on host countries, enhancing refugee self-reliance and expanding access to third country solutions.[6] They provide a significant opportunity to enhance international protection worldwide, by increasing the number of refugees who can access safety and solutions outside already-stretched first countries of asylum. As well as increasing in numerical terms the number of refugees able to access third country solutions, complementary pathways have additional potential benefits, including: easing already tight labour market situations in countries of first asylum,[7] promoting leadership, independence and integration among refugees[8] and providing a 'bridge' between humanitarian and development assistance for refugees.[9] The Refugee Compact's call to expand complementary pathways for refugees has been widely endorsed by international organisations – including the International Labour Organization (ILO), International Organization for Migration (IOM), European Commission and Amnesty International[10] – who urge states to 'expand and increase' avenues for the admission of refugees,[11] incorporate these avenues into their national laws and policies,[12] and move from a system that 'encourages uncontrolled and irregular migratory flows to a fairer system which provides orderly and safe pathways'.[13]

Yet, the role of complementary pathways within the international protection regime is not entirely straightforward. As UNHCR notes, '[c]omplementary pathways are often not accessible for refugees'.[14] Many refugees are unable to meet the basic visa requirements of destination countries, including possession of a travel document and basic language or education requirements. Operational challenges include difficulties for refugees in accessing accurate information about relevant pathways or obtaining the financial assistance necessary to meet administrative and travel costs.[15] Some so-called 'complementary pathways' do not include necessary protection safeguards,[16] meaning that the rights of refugees, including the critical right not to be returned to harm, may not always be sufficiently guaranteed. The temporary nature of some complementary pathways, such as temporary labour schemes or student visas, limits the extent to which they provide 'durable' solutions or 'resolve the fundamental precariousness of refugees' status'.[17] Such pathways may even 'exacerbate rather than reduce refugees' vulnerabilities' – for example, by exposing them to exploitative labour migration programs.[18]

In 2019, UNHCR published 'The Three-Year Strategy on Resettlement and Complementary Pathways' (Three-Year Strategy). Developed in collaboration with more than 90 stakeholders, including some states, the Three-Year Strategy calls for '[s]ustainable and predictable growth'[19] in complementary pathways with the goal that, by the end of 2028, two million people will benefit from complementary pathways.[20] This is double the number (one million) set for resettlement places in the same period.[21] In this context, there is a critical need to better understand the role of complementary pathways in refugee protection, and to consider how states and others can develop and expand complementary pathways in a way that ensures that they promote, and do not undermine, the overarching objectives of the international refugee protection regime.

1.2. Structure of this report

This report takes a critical look at complementary pathways with the aim of exploring three main questions:

***What* are complementary pathways?**
How are complementary pathways defined? What different types or categories of complementary pathways are available?

***Why* complementary pathways?**
Why should states develop and expand complementary pathways for refugees? What are states' international commitments and obligations with respect to the development and implementation of complementary pathways? What are the main objectives of complementary pathways, and what are the risks?

***How* should complementary pathways be developed and implemented?**
What are the key considerations for states in developing or expanding complementary pathways? What standards are required to ensure that complementary pathways promote their objectives and adhere to states' international commitments and obligations?

This report has three main sections, addressing each of these three questions in turn. Following this Introduction, Section 2 takes a closer look at the meaning and scope of 'complementary pathways', setting out the most common examples of complementary pathways and exploring how they might be better understood or categorised. Section 3 articulates the impetus and objectives for developing and expanding complementary pathways for refugees. It outlines key international governance frameworks that apply to complementary pathways, including not only the Refugee Compact but also other binding and non-binding normative frameworks that should guide states in their development and implementation of complementary pathways. This section also articulates the various objectives that complementary pathways aim to achieve. This includes core objectives relating to protection, durable solutions and international responsibility-sharing, as well a range of other, subsidiary objectives that complementary pathways pursue. Finally, Section 4 considers how states should go about developing and implementing complementary pathways for refugees. This section explores what standards may be required to ensure that complementary pathways promote, and do not undermine, their objectives as well as the international commitments and obligations of states. The analysis in Sections 2, 3 and 4 of this report draws on individual examples of complementary pathways to highlight or illustrate specific issues and questions. A more detailed set of five individual case study analyses is provided in an Appendix to this report.

This report represents only a very preliminary step in exploring the 'what, why and how' of complementary pathways. As such, **Sections 2, 3 and 4 of this report each conclude by setting out 'key issues and questions' for further consideration with respect to each of the three main questons – what, why and how?** These issues and questions require significantly more analysis than is provided in this report, as well as input from a broader range of stakeholders, including governments, international organisations, employers, educational institutions, communities and refugees themselves. In this context, it is hoped that this report might provide a useful starting point for those wishing to better understand the nature and purpose of complementary pathways, and a conceptual framework to support some of the further discussion and analysis required.

2. *What* are complementary pathways?

The exact meaning of the term 'complementary pathway', and what is required for a particular migration opportunity or program to 'count' as a complementary pathway, remains subject to ongoing discussion.[22] Questions remain regarding the minimum, or essential, components of complementary pathways, and whether some pathways (such as community sponsorship) are really separate pathways, or rather tools that can be used to support and facilitate other pathways, such as resettlement. One of the core challenges of defining 'complementary pathways' is capturing the range and diversity of pathways and programs that might fall within this term. For example, humanitarian admission programs, such as dedicated humanitarian corridors and 'protected entry procedures', are established for the express purpose of providing safe access to territory for those wishing to seek asylum. They differ significantly in their objectives and operation from complementary pathways such as education and labour mobility pathways – which are designed for non-humanitarian purposes and directed primarily at the economic interests of states.

Clarity in the meaning of 'complementary pathways' is an important part of efforts to expand such pathways, and critical to the achievement of the Three-Year Strategy's goal of two million refugees to benefit from complementary pathways by 2028. This section begins by describing some of the commonly cited examples of complementary pathways, before exploring the different ways that complementary pathways might be understood and categorised. Rather than trying to identify the minimum core components, or standards, that complementary pathways require, this section takes an expansive view of complementarity in order to identify the variety and types of pathways that exist. Questions about the essential components, or minimum standards, that complementary pathways should provide are instead explored in Section 4, which discusses *how* states should develop and implement complementary pathways.

2.1. Common examples of complementary pathways

The most common examples of complementary pathways for refugees are: **humanitarian visas and admission programs, community sponsorship, family reunification, labour mobility, and education pathways**.[23] Each of these complementary pathways provides an independent pathway for refugee admission and stay in another country. They may also be combined in practice – for example, where humanitarian visas or community sponsorship programs are used to facilitate refugees' entry and access to education programs.

2.1.1. Humanitarian visas and admission programs

Humanitarian admission programs provide individuals in need of international protection with admission and stay in a third country, particularly in situations involving large-scale displacement and requiring a swift response.[24] They are needs-based – specifically developed to provide admission and protection to displaced persons. However, the eligibility criteria for humanitarian admission programs may differ from those used for UNHCR's resettlement program. While humanitarian admission programs may provide access to permanent residency, in practice, most provide only temporary status or stay in the country of admission. These are sometimes also referred to as Temporary Protection or Stay Arrangements (TPSAs).[25]

Humanitarian admission programs may be facilitated by humanitarian visas – specifically designed visas used to facilitate admission to territory for displaced persons. However, humanitarian visas may be used to facilitate entry under other pathways as well – for example, community sponsorship or education pathways.[26] In some cases, humanitarian visas are used in conjunction with 'protected entry schemes', allowing individuals to apply for protection prior to travelling to the country of destination.[27] In others, individuals travelling on humanitarian visas have their international protection needs assessed only after they arrive in the country of admission.[28] In 2015, for example, Italy established 'Humanitarian Corridors' – safe pathways to allow mostly Syrian asylum seekers to travel to Italy and apply for refugee status once there.[29]

2.1.2. Community sponsorship

Community sponsorship is a broad term used to describe any refugee admission program where 'individuals, groups of individuals or organizations … come together to provide financial, emotional and practical support for the reception and integration of refugees admitted to third countries'.[30] Community sponsorship can provide a standalone complementary pathway – separate to resettlement and with its own, dedicated annual quotas – thereby making 'protection available to new groups of refugees… and [tapping] into private resources that allow governments to expand their resettlement commitments.'[31] Community sponsorship can also operate as a tool to facilitate and support refugees accessing other pathways[32] – for example, where individuals, communities and civil society organisations provide social, financial or logistical support to refugees accessing education pathways or humanitarian admission programs.[33] The exact structure of community sponsorship pathways can vary greatly, depending on who is responsible for nominating refugees for sponsorship (whether governments, individuals or community groups) and the level of financial or other support provided by government in addition to that provided by sponsors.[34] In some cases, the distinction between community sponsorship programs and resettlement programs can become blurred in practice.

2.1.3. Family reunification

Family reunification pathways provide avenues for admission and stay in third countries for refugees who have been separated from family members.[35] They are grounded in the rights to family protection and unity in international refugee and human rights law.[36] Reunification of family members may take place within more general resettlement programs.[37] More commonly, it occurs within separate 'family reunification' pathways, that facilitate entry and stay for family members of refugees already legally residing in the territory. Access to family reunification pathways depends on an application lodged by a family member already lawfully residing in the destination state. While many refugee families are reunited this way without assistance by UNHCR or others, refugees usually face a range of administrative and legal barriers to family reunification. These include: lack of knowledge about options and application processes, long wait times for family members already in the destination country to obtain the requisite residence status to support reunification, restrictive definitions of 'family' in destination countries, difficulties obtaining required documentation, and an inability to meet associated financial costs.[38] In response, a number of dedicated programs have been set up to support particularly vulnerable refugees to access family reunification. For example, the Central Mediterranean Family Reunification Project, establish by UNHCR and its partners, aims facilitates access to family reunification pathways for at-risk children travelling in the Central Mediterranean region.[39] In practice, the barriers faced by refugees mean that 'many refugees wait many years for family reunification'.[40]

2.1.4. Labour mobility

Labour mobility pathways for refugees, are 'safe and regulated avenues for entry or stay in another country for the purpose of employment, with the right to either permanent or temporary residence'.[41] Such pathways include regular labour migration programs that are available to, and in some cases modified for, refugees, as well as temporary or permanent entry arrangements that are specifically designed for refugees.[42] Labour mobility pathways for refugees are often framed not only in terms of the opportunities they present for skilled

refugees, but also as a means for host states to achieve economic benefits and address their own labour shortages.[43] They were a common solution for refugees following World War I, when ILO matched refugees with work opportunities internationally.[44] At least some refugees access international employment opportunities independently of assistance by UNHCR or others.[45] Currently, only a very small number of refugee-specific specific labour mobility pathways are available for refugees. Canada and Australia, for example, are currently working with non-governmental organisations, Talent Beyond Boundaries, to undertake pilot programs in refugee labour mobility.[46] Access is limited to those refugees with skills or qualifications in demand in countries of destination and usually depends on the refugee having a secure job offer.

2.1.5. Third country education opportunities

Like labour mobility pathways, education pathways for refugees are of two main types. The first is regular education migration pathways that may be accessed by, or adapted for, refugees. In Japan, for example, the Japan International Christian University Foundation (JICUF) facilitates refugees' admission to study in Japan using regular student visas.[47] The second type of education pathway comprises humanitarian entry pathways that incorporate access to education for refugees. The World University Service of Canada's (WUSC) Student Refugee Program, for example, provides a pathway to admission and study in Canada that sits within Canada's broader humanitarian programs.[48] Education pathways may be supported by scholarships and/or sponsorship arrangements that provide support with fees, accommodation, language training and cultural integration. Only some education pathways entail permanent residence. Others envisage post-education access to employment or further study, or the opportunity to apply for residence.[49] These latter pathways are sometimes described as part of a 'progressive approach to solutions'.[50]

2.2. Different categories of complementary pathways

As noted above, one of the key challenges in defining complementary pathways is how to capture the diversity of such pathways within a single category. While the pathways described above all generally satisfy UNHCR's broad definition of complementary pathways as 'safe and regulated avenues' by which 'refugees may be admitted in a country' there also are considerable variations between them. These differences include in relation to: who is eligible to access the pathway, who is responsible for selecting beneficiaries, what rights or benefits are provided to refugees, the extent and nature of UNHCR's involvement, and the number of places offered each year.

These differences exist not only between the different examples of pathways described above, but also within them. As noted above, for example, Canada's WUSC Student Refugee Program is similar to its resettlement. It provides permanent residence to more than 130 refugees each year living in Jordan, Kenya, Lebanon, Malawi, Tanzania or Uganda who travel to Canada to study at one of approximately 95 universities.[51] In contrast, JICUF's Syrian Scholars Initiative provides two scholarships each year to Syrian refugees living in Turkey to study at the International Christian University (ICU) in Japan. Refugees are assisted by JICUF to enter Japan using regular student visas, with no guaranteed pathway to longer term or permanent stay beyond the period of study.[52]

Diversity within and between in complementary pathways has generated considerable discussion not only about how to define them, but also about how they might be categorised to better understand and reflect these differences. This report considers two main ways of categorising, or distinguishing between, different types of complementary pathways. These are not mutually exclusive, and both could play a role in understanding the different nature of the various complementary pathways as well as what is required to establish them.

2.2.1. Needs- vs qualifications-based complementary pathways

The first option for categorising different kinds of complementary pathways was proposed by RefugePoint's Director of International Programs, Martin Anderson, during a June 2020 UNHCR-hosted roundtable discussion on complementary pathways. In essence, Anderson proposes a distinction between those complementary pathways that are based on refugees' needs, and those based on refugees' qualifications, as follows:

Needs-based complementary pathways – e.g. humanitarian visas and humanitarian admission programs.
Access to these pathways is based primarily on protection needs, though eligibility criteria differ to those used within UNHCR's resettlement program.

Qualification-based complementary pathways – e.g. family reunification, employment pathways and education pathways
Access to these pathways is based primarily on qualifications (including familial relationships) rather than protection needs.

The distinction between needs-based and qualification-based complementary pathways is based primarily on differences in eligibility criteria between the respective pathways. However, it also reflects a more fundamental difference between the objectives of the respective pathways, some of which are intended to achieve humanitarian goals, while others may be directed toward other (non-humanitarian) goals but provide opportunities for refugees who fulfil their criteria.

Distinguishing between needs-based and qualifications-based complementary pathways is important in recognising the opportunities, as well as the limitations, that the respective pathways provide, and in understanding the potential motivations of states in establishing them. The distinction is not entirely straightforward, however, and indeed raises a number of further questions, including: is family reunification best framed as a qualifications-based complementary pathway, based on the close family relationship ('qualification') that provides access, or a need-based pathway, based on the right ('need') of refugees to achieve family reunification? Is community sponsorship an independent complementary pathway (as suggested in UNHCR's 'Key Considerations' for complementary pathways), or is it better understood as a tool for facilitating other pathways (as suggested by Anderson when proposing the distinction)?

One especially important question is whether complementary pathways present opportunities for combining needs-based and qualifications-based objectives? For example, is there any role for individual consideration of vulnerability and/or protection needs within qualifications-based complementary pathways? Could (or should) applicants' vulnerabilities and protection needs be incorporated when assessing eligibility, particular as between applicants who are otherwise similarly qualified for a particular pathway? Does the relaxation of entry requirements for refugees under qualifications-based pathways make them (at least partly) 'needs-based'?

2.2.2. 'Custom' complementary pathways vs regular migration channels

A second option for categorising different kinds of complementary pathways is based on the status of the respective pathways within the country of destination's immigration programs, as follows:

> **'Custom' complementary pathways for refugees.**
> These are complementary pathways that have been specifically developed and implemented, often in conjunction with UNHCR, to provide admission and stay for refugees (whether needs or qualification-based).
>
> **Regular migration pathways accessed by and/or adapted for refugees.**
> These are regular migration pathways – including labour and education pathways – available to any applicant, including refugees, but which may require specific adaptation or adjustment to ensure that refugees have equitable, or competitive, access.

The distinction between refugee-specific 'custom' complementary pathways and regular migration pathways that may be accessed by refugees is important for several reasons. The first is that, in many cases, it suggests the nature and degree of intervention that may be required to provide refugees with access to the pathway. For example, custom pathways require considerable work to establish them and ensure that appropriate criteria, processes and supports are put in place. Regular migration pathways, on the other hand, do not require initial 'set-up' but may require considerable assistance and advocacy to facilitate individual refugees' access.

The distinction between custom complementary pathways and regular migration pathways may also be significant for states in considering whether to implement complementary pathways, because it **indicates the degree or type of change required to existing immigration programs in order to facilitate refugees' access**. That is, custom complementary pathways may require the creation of new visa categories and associated legislative changes, and may have implications for overall migration programs and quotas. Conversely, regular migration programs may require more administrative adjustments or flexibility within existing legal frameworks to be accessible to refugees.

As noted above, these models for categorising different types of complementary pathways are not mutually exclusive. Indeed there may be correlations between the two. For example, needs-based complementary pathways may require custom arrangements within

the destination states' immigration programs, while qualifications-based pathways are more likely to fit within existing labour and education migration channels.

2.3. Issues and questions for further consideration

Precision in what is meant by 'complementary pathways' is important in identifying more clearly what is required from states to further their commitments in the Refugee Compact. It is also a key component in assessing progress towards the goal of 2 million people benefiting from complementary pathways by 2028 and maintaining some minimum components or standards to ensure that complementary pathways actually uphold the principles they are intended to achieve. However, it is worth emphasising that the need for a clearer definition of complementary pathways is not an end in itself, but rather a means of achieving the objectives that such pathways are designed to achieve. In particular, the numerical goal set by UNHCR should not provide the basis or impetus for definitional decisions. As emphasised by UNHCR's Special Advisor for Resettlement and Complementary Pathways, David Manicom, the overarching objective of the Refugee Compact is to grow 'third country solutions', and while definitional questions are an important tool in working towards that objective, they should not be confused with the objective itself.[53] Given the vast diversity that complementary pathways entail, identifying a single definition or set of criteria may be a largely artificial exercise.

In order to balance the need for clarity with the diversity of complementary pathways, a number of questions warrant further consideration by UNHCR, states, and other actors currently engaged in the development and implementation of complementary pathways.

What are complementary pathways?
Key issues and questions

1. What is the purpose of defining 'complementary pathways'? How might the definition of complementary pathways differ depending on the various purpose/s for which they are defined – for example, to encourage government action, to measure access or benefits, or to assess progress towards other goals, such as international responsibility sharing?
2. What are the common elements of the various examples of complementary pathways and what are the differences? How can the categorisation of different complementary pathways help to increase understanding and promote further development of such pathways?
3. How should the needs for clarity and to assess progress towards the expansion of complementary pathways be balanced with the overarching objectives of the Refugee Compact and refugee protection?

3. *Why* increase complementary pathways?

The Refugee Compact's call to states to expand complementary pathways for refugees comes largely in response to the 'tremendous gap' between the number of refugee resettlement places available around the world and the number of refugees in first countries of asylum and for whom other durable solutions, including return or local

integration, are not available.[54] In 2019, UNHCR was able to secure resettlement for just 4.5 per cent of those refugees deemed most in need of this durable solution.[55] In light of this shortfall, finding alternative solutions for those refugees unable to return to their countries of origin or integrate into countries of first asylum is vital.

There are also a range of binding and non-binding international frameworks, in addition to the Refugee Compact, that support, and should guide, states in their efforts to develop to develop and expand complementary pathways for refugees. Within these frameworks, complementary pathways are primarily a means of increasing access to protection and solutions for refugees, and promoting international responsibility-sharing to relieve the pressure on those 'frontline' states that host the vast majority of the world's refugees. However, there are other objectives that might be achieved via complementary pathways as well, such as addressing skills and labour gaps in countries of destination (third countries).

3.1. Governing frameworks in international law

Complementary pathways contribute towards three of the four key objectives of the GCR, namely: **easing pressure on host countries, enhancing refugee self-reliance and expanding access to third country solutions**.[56] However, they also fulfil, and should be guided by, a range of other international commitments and obligations of states relating to refugee protection, human rights and sustainable development.

To begin with, states' commitments under the Refugee Compact should be viewed in partnership with their commitments under the Global Compact for Safe, Orderly and Regular Migration (Migration Compact) as well. Under the Migration Compact, states signatories have pledged to 'enhance availability and flexibility of pathways for regular migration',[57] and in particular, to:

> Develop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin, due to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible.[58]

Irrespective of debates regarding the relationship between the Refugee and Migration Compacts, or the applicability of the Migration Compact to refugees,[59] increasing access and overcoming barriers to migration is a clear step towards increasing safe, orderly and regular migration.

Importantly, complementary pathways also further the objectives of widely ratified, and binding, 1951 Convention relating to the Status of Refugees (Refugee Convention). Though the Refugee Convention does not include specific responsibility-sharing obligations, it recognises that refugee problems are international in scope and solutions 'cannot… be achieved without international co-operation'[60] and obliges states parties to

'co-operate with the Office of the United Nations High Commissioner for Refugees'.[61] In addition, the Refugee Convention sets out a range of important rights, that are accrued by refugees by virtue of their predicament as refugees and irrespective of formal recognition or status as a refugee.[62] Measures by states to develop and implement complementary pathways must ensure that refugees are afforded these rights.

In addition to the rights set out in the Refugee Convention, refugees who access complementary pathways are entitled to the broader range of rights that states must provide to *all* persons, including those set out in the core international instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[63] While some of these rights – for example, the right to vote or stand for public office – may be limited to citizens or permanent residents of a state, many others must be afforded to *all* persons within a state's territory or control, including non-nationals.[64]

More specific rights and standards may also apply to those moving under complementary pathways, depending on their specific situation and the nature of the pathway. For example, ILO standards relating to labour and migration, including ILO Guidelines on 'Additional Pathways for Labour Mobility', call on states to:

> integrate international labour standards, the Decent Work Agenda and the Multilateral Framework on Labour Migration, where possible, into national policies and regional and bilateral agreements governing the development and expansion of labour mobility pathways for refugees.[65]

More broadly, the 2030 Agenda for Sustainable Development, adopted by the United Nations General Assembly in 2015, includes 17 Sustainable Development Goals (SDGs), designed to promote equal opportunities and human rights for all people across the globe.[66] Though the SDGs are not refugee-specific, it is 'undeniable' that solutions for refugees are inextricably linked with efforts to promote sustainable development.[67] Actions taken by states to develop and implement complementary pathways for refugees could further their progress towards meeting the SDGs. The links are especially clear for labour or education-related opportunities for refugees, which contribute directly to a number of specific SDGs, including quality education and work education opportunities for all.[68] Complementary pathways could advance many more of the SDGs indirectly, including health and well-being,[69] sustainable cities and communities[70] and partnerships.[71]

In addition to these international frameworks, regional frameworks will be relevant to particular states and regions. For example, Africa's regional refugee protection instrument, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, calls on states parties to 'in the spirit of African solidarity and international co-operation take appropriate measures to lighten the burden of … Member State[s] granting asylum'.[72] In Latin America, the 2004 Mexico Declaration and Plan of Action established a regional 'Solidarity Resettlement Program', based on states' commitments under the 1984 Cartagena Declaration on Refugees and to cooperate with UNHCR.[73] In Europe, a wide range of instruments govern refugee rights and states' implementation of resettlement, including the 1950 European Convention on Human Rights (ECHR),[74] the EU Charter of Fundamental Rights,[75] and Asylum Procedures Directive[76] and, if adopted, the Council's proposed European Union Resettlement Framework.[77] While a full analysis of these regional instruments is outside the scope of this report, it will be critical to understanding

the framework of obligations and commitments that could be served, and should guide, the development and implementation of complementary pathways by individual states.

3.2. Objectives of complementary pathways

3.2.1. Core objectives

Complementary pathways provide one of a broad range of strategies within the international refugee protection regime that ultimately aim to provide safe and lawful pathways to protection for people whose lives and freedoms are at risk, and who are otherwise left vulnerable to smuggling, exploitation and dangerous travel routes. More specifically, complementary pathways aim to increase access to third country durable solutions for refugees, particularly in light of the vast (and growing) shortfall between the number of places available for resettlement each year and the number of refugees in need.

Complementary pathways are intended to 'complement' resettlement – that is, they are 'additional to resettlement and do not substitute the protection afforded to refugees under the international protection regime'.[78] Nevertheless, the core objectives of complementary pathways and resettlement are the same – namely, to **provide protection and durable solutions for refugees, and promote international responsibility sharing** in the protection of refugees.[79]

Complementary pathways can 'build [refugees'] capacities to attain a **durable solution**'.[80] Some pathways, such as labour mobility, have been proposed as a potential 'fourth durable solution' to displacement, in addition to the three traditional solutions of return, resettlement and local integration.[81] Ideally, complementary pathways do provide a durable solution equivalent to that provided under UNHCR-facilitated resettlement programs. In Canada, for example, community sponsored refugees receive permanent residence on arrival.[82] In Australia, family reunification pathways, though initially 'provisional', provide refugees with automatic access to permanent legal status in the country.[83] At present, however, not all complementary pathways provide automatic access to durable solutions. Temporary migration channels, such as student pathways or temporary labour migration schemes, are far from 'durable' in themselves. In some cases, however, skills and experience gained by refugees during temporary stay arrangements can increase opportunities and access to more lasting legal solutions, such as permanent residence, once they are within the country of destination. For example, refugees who secure a job following their studies in Japan can apply for a a work visa, and eventually, for permanent residence.[84] Thus, even 'temporary stay arrangements… could be part of a progressive approach to solutions'.[85]

In addition to providing durable solutions, complementary pathways can also help to fulfil refugees' more immediate **international protection needs** such as access to safety and the fulfilment of basic human rights. Particularly for refugees facing precarious legal status and/or limited rights in countries of first asylum, complementary pathways can better ensure refugees' rights to education, healthcare, justice and self-determination. Even

where complementary pathways satisfy these basic requirements, however, careful assessment may be required to ensure that any particular pathway is in the best interests of the individual refugee. For example, under the Central Mediterranean Family Reunification Project, Best Interest Procedures are undertaken to determine whether reunification with family is in the best interests of at-risk children being assisted by UNHCR and others.[86] Under Italy's Humanitarian Corridors, representatives of faith-based organisations consult extensively with individual refugees and refugee families prior to travel to ensure that they are aware of the challenges that settlement in Italy entails and able to make fully informed decisions about whether the program is a good fit for them.[87]

Some complementary pathways – particularly those involving education or labour opportunities –offer refugees a path out of dependency and towards **self-reliance**.[88] Advocates for complementary pathways emphasise the fact that, among the world's refugees, there are many 'immensely talented' individuals whose displacement prevents them from realising their personal and professional capacities.[89] Complementary pathways may provide refugees with opportunities to 'regain autonomy and independence'[90] and 'decide for themselves where to work and how to support themselves'.[91] Opportunities for self-reliance among some refugees may have flow on benefits for refugees left behind in host states as well, by facilitating remittances[92] and by allowing humanitarian aid to be directed to the most vulnerable.[93] Even those refugees who apply for complementary pathways but are ultimately unsuccessful may benefit from the process – for example, refugees registering for Talent Beyond Boundaries' labour mobility programs receive support in looking for work and developing interview skills and improved English language skills.[94]

The pathway to self-reliance is not automatically guaranteed by all complementary pathways, however. Indeed, some of the potential concerns about complementary pathways are that many regular migration channels may afford refugees only limited rights,[95] or create opportunities for exploitation of refugees.[96] For example, labour migration pathways may limit refugees' employment to a particular job or sector, leaving them vulnerable to mistreatment by unscrupulous employers.[97] Thus, in order to ensure that complementary pathways enhance, and do not undermine, refugee protection, they must be 'responsive to the international protection needs of refugees and ensure their access to rights and services'[98]

Finally, and in accordance with the overarching objectives of the Refugee Compact, complementary pathways promote more 'predictable and equitable burden- and **responsibility-sharing**' in the protection of refugees.[99] At a practical level, complementary pathways promote responsibility-sharing in the same way as resettlement – by providing refugees in countries of first asylum pathways to admission in third countries, thereby relieving the pressure on those 'frontline' states – such as Jordan, Lebanon, Turkey and Kenya – that host the majority of the world's refugees. The push for complementary pathways might further promote responsibility-sharing in a way that the push for resettlement places alone does not. That is, implicit in calls for states to enhance access to complementary pathways is the assumption that such pathways provide incentives, or benefits, for states in a way that may encourage states that are reluctant to expand (or even offer) resettlement place to open up complementary pathways instead. Labour mobility and education pathways allow states to address their own labour shortages and

needs, and to attract high-performing students to their educational institutions. Community sponsorship, labour mobility and humanitarian admissions pathways all provide opportunities for third countries to engage other actors – including the private sector, community groups and faith-based organisations – in the provision of refugee protection and solutions.

The additional benefits that complementary pathways entail, and that might provide incentives to states and others engaged in providing them, can be framed as 'subsidiary objectives' for complementary pathways. These subsidiary objectives are often expressed (either explicitly or implicitly) in calls for the expansion of complementary pathways, and often as part of efforts to make complementary pathways more 'attractive' to potential countries of destination. They relate not only to the benefits that complementary pathways provide to refugees, but also to how they might address the needs and interests of others, including governments, host communities, private actors and even those refugee communities left behind in countries of origin or first asylum.

3.2.2. Subsidiary objectives

In addition to providing protection and longer term solutions for refugees, complementary pathways that highlight refugees' skills and contributions have broader benefits for both refugees and the broader communities in countries of destination. Evidence suggests that access to education and employment opportunities, and reunification with family members, all contribute to higher rates of successful refugee settlement and integration, meaning that refugees are more likely to become active participants and contributors to their new societies.[100] This can have the added benefit of shifting negative refugee narratives and fostering **positive public attitudes** to refugees.

> Having skilled refugees engage in productive work has the potential to shift attitudes as more people see how refugees contribute to development, communities and local economies. Skilled refugees will be seen as assets, people who can make valuable contributions.[101]

Manicom describes this as 'complexifying' refugees – emphasising refugees are not only refugees, but also students, workers, family members and active members of the community.[102] This can have flow on benefits too, by fostering a more inclusive community and welcoming environment for all refugees, irrespective of how they arrive.[103] It can even increase the capacity of communities to accept and absorb a greater number of refugees in need, including via resettlement. In Canada, added refugee supports and resources that were developed for Pictou County's labour mobility program for refugees led to increased capacity within the county's resettlement program as well, enabling community groups to sponsor an additional three families for resettlement.[104]

As noted above, complementary pathways can have specific benefits for the countries of destination that provide them. In particular, labour mobility pathways for refugees could assist receiving countries to address their own **skills gaps and labour shortages**. For while many refugees remain stuck in protracted displacement around the world, elsewhere 'countries around the world are facing skill gaps and demographic shortfalls, especially in rural communities'.[105] Complementary pathways linked to labour and employment provide 'access to a hidden talent pool of experienced, talented employees who are eager to put

their skills to use in locations around the globe where they can serve their new communities.'[106]

Complementary pathways are also part of broader efforts to promote **safe, orderly and regular migration.** According to the European Commission, complementary pathways could 'help reduce irregular flows and facilitate relations with countries of origin and transit'.[107] Providing 'safe and regulated avenues' for refugee admission into third countries could fulfil refugees' needs for 'safe, regular and sustainable access to safety'[108] and 'contribute to saving lives whilst reducing irregular migration'.[109] In addition promoting safe, orderly and regular migration is a key part of the desire of many states for a 'more managed approach to refugee protection'.[110]

In theory, the interest of refugees and states in promoting safe, orderly and regular migration are the same, making this a potential 'win-win' outcome of complementary pathways. In practice, however, states initiatives to promote regular migration often entail the use of restrictive measures aimed at preventing irregular migration, such pushbacks, carrier sanctions and detention in countries of transit. Measures that prevent irregular migrants from reaching states' territory may have the effect of *limiting* access to international protection for those in most need. Thus, even where managed entry regimes are available to refugees, 'the right of refugees to arrive wherever they can reach without penalization for unlawful presence must be respected'.[111]

Finally, while some complementary pathways – in particular, labour mobility and education pathways – are framed as additional, voluntary measures that states can take to further their contribution to refugee protection, viewed from another direction, they are simply steps taken to reduce barriers and promote **equitable access** to existing international employment and study opportunities. Those working within Canada's labour mobility program for refugees describe this as 'levelling the playing field' for refugees.[112] By virtue of their displacement, refugees face numerous barriers in accessing such opportunities, including: lack of passport or other identity documents, lack of education records, disruptions to work experience, lack of language training opportunities and insufficient financial resources.[113] There are corresponding barriers for employers or educational institutions considering refugee applicants, including long delays in visa processing times and difficulties verifying skills and qualifications of refugees.[114] Lack of consideration for the barriers faced by refugees means that 'many refugees miss out on these opportunities altogether'.[115] In order to ensure equitable access to international education and employment opportunities, governments must be proactive in reducing barriers and facilitating travel and integration.[116]

3.3. Issues and questions for further consideration

There are clearly considerable benefits to be gained from the development and expansion of complementary pathways for refugees. However, **realising the benefits of complementary will not always be straightforward**. One of the main potential limitations of complementary pathways is that access to many complementary pathways relies not only on an assessment of refugees' protection needs, but also on considerations, such as refugees' skills, education and family relationships, that are not necessarily related to protection needs.[117] This means that, beyond the basic criterion of being in need of international protection, complementary pathways – with the exception of humanitarian

visas and admissions programs – do not necessarily target those refugees that are most vulnerable and most in need of a durable solution. Indeed, Talent Beyond Boundaries (TBB) – one of the few facilitators of refugee labour mobility – emphasises that 'recruitment happens from a demand-driven perspective, not a supply-driven one'.[118] As part of pilot programs in Canada and Australia, the organisation's attempts to match pre-selected refugees with job opportunities in destination countries resulted in no successful matches, due to the 'highly specialised' expectations of employers.[119] The organisation concluded: 'Employers are the best placed to select the right employee for them, and TBB has learned its role is only to assist in that process by providing a shortlist of suitable candidates.'[120]

In theory, the absence of vulnerability considerations within many complementary pathways need not be a limitation, given the existence of an alternative mechanism – namely, resettlement – for the most vulnerable refugees. Given the vast shortfall in available resettlement places noted above, however, even a significant expansion of complementary pathways will still leave around 95% of the most vulnerable refugees without a solution in sight. This raises questions about the value of complementary pathways in addressing overall refugee protection needs, and the potential risks associated with diverting attention, resources and political capital (of states, UNHCR or others) away from resettlement to focus on complementary pathways.

In addition, unlike resettlement, which is (at least in principle) exclusively humanitarian in its goals, complementary pathways aim to serve multiple goals and objectives at once. Indeed, this is arguably a key 'selling point' of complementary pathways, and the reason that states may be more willing to adopt them where efforts to encourage increasing resettlement have failed. In the best case scenario, the multiple objectives and interests engaged by complementary pathways will be mutually reinforcing and fulfilling. For example, the needs of refugees to find durable solutions to displacement are congruous with employers' desires to secure a long-term, stable workforce. Under these conditions, complementary pathways create a 'win-win' scenario for everyone involved. Inevitably, however, the intersecting interests of various actors engaged in complementary pathways – including governments, employers and education institutions, in addition to refugees themselves – may lead to situations in which those objectives and interests conflict. For example, labour migration programs 'based on perceived or real costs and benefits… for the existing residents of the host country'[121] are often temporary and may limit the rights of labour migrants to work outside the sector or job they are initially employed in, or to access social security to support themselves or their families.[122] Where limitations such as these are overcome for refugees – for example, via guaranteed pathways to more lasting status such as permanent residence – the loss of flexibility may reduce the perceived benefit to states, thereby undermining one of incentives to admit refugees in the first place.

An Expert Council of German Foundations on Integration and Migration puts the conundrum as follows:

> The debate around resettlement and alternative admission pathways is similar to the "numbers vs. rights" debate in regard to immigration policy and reflects the trade-off that states either admit more people but grant them fewer rights or else limit the number of people admitted but grant them a more robust status and wide-ranging entitlements.[123]

In light of these potential issues and conflicts associated with complementary pathways, a number of key questions are worth further consideration.

Why increase complementary pathways?
Key issues and questions

1. What gaps exist between the rights afforded to refugees under international law and the rights afforded to refugees under existing or proposed complementary pathways?
2. Under what conditions, or in what situations, might the multiple interests and objectives in complementary pathways come into tension or conflict?
3. How can protection outcomes for refugees under complementary pathways be balanced with the interests to states and other actors in a way that maximises the benefits for all actors involved?

4. *How* should complementary pathways be developed and implemented?

In December 2018, 181 countries endorsed the UN General Assembly's adoption of the Refugee Compact, committing to increase the availability and predictability of complementary pathways for admission to third countries. Some states have since made more specific pledges towards this goal via the Refugee Compact's Digital Platform.[124] For example, Argentina has committed to '[e]xpand the current humanitarian visa program and other complementary pathways for admission to other nationalities'.[125] The Republic of Philippines has pledged to 'explore the development of complementary pathways for the admission of refugees, with the support of the Complementary Pathways Initiative'.[126]

In light of discussions regarding the nature and objectives of complementary pathways, this section explores *how* states should go about developing and implementing (or expanding) complementary pathways. There are of course a broad range of legal, political, financial and practical considerations for states in this regard. It is outside the scope of this report to consider all of these, and indeed further research is required to determine the politico-legal conditions under which complementary pathways can be successfully developed and implemented. Instead, this report focuses on the questions flagged earlier in this report regarding **what standards are required in order to ensure that complementary pathways promote, and do not undermine, the international refugee protection regime**.

4.1 Setting standards for complementary pathways

Setting standards for complementary pathways is critical to ensuring that such pathways achieve their intended objectives – in particular, the core objectives of refugee protection, durable solutions and international responsibility sharing – and to ensuring that they uphold states' international commitments and obligations. As UNHCR notes, '[s]ome pathways may not feature sufficient safeguards to meet the unique protection needs of refugees'.[127] Indeed, some migration pathways could result in exploitation or abuse of

refugees – for example, where they consist of exploitative temporary labour schemes or put refugees at risk of refoulement. In light of states' commitments to expand refugees' access to complementary pathways, and efforts by UNHCR and others to encourage and assess progress towards these commitments, some specific safeguards and standards are critical to ensuring that such pathways advance, and do not risk undermining, protection outcomes for refugees.

Questions regarding the appropriate standards for complementary pathways include: must complementary pathways guarantee refugees a durable solution, such as permanent residence or citizenship? Do temporary migration channels provide sufficient access to protection and durable solutions for refugees who access them? What is the relationship between complementary pathways and asylum – in particular, can complementary pathways provide meaningful solutions for refugees in states lacking any effective national asylum system? How important is formal recognition of refugee status in promoting the overarching objectives of complementary pathways?

As noted earlier in this report, these questions are sometimes framed as questions about what 'counts' as a complementary pathway.[128] However, they could alternatively be framed in terms of the standards required in order for complementary pathways to promote, and not undermine, the international refugee protection regime. This latter approach takes a more inclusive view of what 'counts' as a complementary pathway, within which discussions about the benefits and risks of individual pathways, and/or how particular pathways might be improved, can take place.

With this in mind, the following seven standards are proposed as standards against which complementary pathways can be assessed to determine whether, and to what extent, they uphold their objectives and the international commitments and obligations of destination states. Exactly what is required under each of these standards, and whether a minimum threshold of acceptability should apply, may require further discussion, as may the inclusion of additional standards or features not discussed here. However, these standards provide a starting point for thinking about how states (and others) should go about developing, implementing and expanding complementary pathways.

4.1.1. Principle of 'additionality'

The principle of 'additionality' requires that complementary pathways 'are *additional* to resettlement and should lead to an overall net increase in the number of third country solutions for refugees.'[129] This principle is embedded in states' commitments to enhance complementary pathways under the Refuge Compact and to existing efforts by UNHCR and others to promote complementary pathways among states.[130] The principle of additionality is especially important in ensuring that places provided under complementary pathways – which, as already discussed, may be based on skills and qualifications rather than vulnerability or protection needs – do not take away from the already limited places available for resettlement for the most vulnerable refugees.

This relatively straightforward proposition can be difficult in practice and in light of the diversity of state practice in the implementation of both complementary pathways and resettlement itself. Some existing 'complementary pathways' do not fulfil the principle of

additionality. Australia's family reunification program for refugees, for example, has long been criticised for being included in Australia's overall resettlement program instead of having its own, separate quota. Moreover, some states have been criticised for incorporating into their resettlement programs criteria additional to those identified for resettlement by UNHCR – for example, the 'integration potential' criteria that have been applied by some European states[131] – making it even more difficult to distinguish between resettlement and complementary pathways.

Maintaining the principle of additionality is particularly important with respect to 'qualifications-based' complementary pathways, such as education pathways or labour mobility, where '[t]he purpose should not be for highly skilled refugees to take the place of highly vulnerable refugees in humanitarian programs.'[132] Indeed, this may be a further reason *not* to incorporate vulnerability-based criteria into selection of candidates for labour or education opportunities, for the risk that states might begin to blur the distinction between complementary pathways and resettlement. On the other hand, there is limited evidence that, in some contexts at least, resettlement programs could be used to 'pave the way' for the development of more genuinely 'complementary' pathways. For example, the very early phases of Talent Beyond Boundaries' Australian pilot program included assisting refugees matched with Australian employment opportunities to apply for a place within Australia's resettlement program.[133] Though such an approach clearly goes against the principle of additionality, the organisation maintains that the successful placement of a small number of refugees in employment using this approach was pivotal in garnering government support for the development of more 'mainstream' labour migration opportunities for refugees.[134] In this way, pathways that initially do not satisfy the additionality requirement may provide a stepping stone to pathways that do.

Finally, even where the principle of additionality is formally maintained – for example, by ensuring that resettlement quotas are separate from, and not impacted by, the use of complementary pathways – it is possible that the latter will impact on the form in less visible ways, both positive and negative. On the one hand, government efforts to establish complementary pathways may risk eroding the political capital and goodwill available for future development and expansion of formal resettlement programs. On the other hand, however, formal resettlement programs and complementary pathways may be mutually supporting. This has been the case in Italy, for example, where civil society and faith-based organisations working on Humanitarian Corridors collaborate regularly with those working on resettlement to share examples of best practice and integrated settlement services for those arriving in Italy.[135]

Despite the complexity and challenges involved in preserving the principle of additionality, the principle that complementary pathways based on skills, qualifications and experience of refugees must be *complementary* to, and not a replacement for, needs- or vulnerability-based pathways such as resettlement remains essential to maintaining the integrity of complementary pathways and the overarching goal of increasing access for refugees to third country solutions.

4.1.2. Clear eligibility criteria

UNHCR's definition of complementary pathways in its 'Key Considerations' document includes complementary admission pathways to third states for 'refugees'. Elsewhere, UNHCR describes beneficiaries of complementary persons as including both refugees and

others 'in need of international protection',[136] with the intention to capture individuals who have not yet undergone formal refugee status determination but who cannot return to their country of origin due to the risks they face there.[137] In practice, some complementary pathways – for example, education and labour mobility pathways in Canada – are available only to refugees formally recognised as such by UNHCR.[138] Others, however, do not require formal recognition of refugee status, but may be based on a 'presumption' of eligibility for certain populations – for example, Syrians living Jordan, Lebanon or Turkey.[139]

On the one hand, not requiring formal recognition of refugee status for access to complementary pathways reflects the practical impediments to refugee status determination – including lack of resources and long delays – in many countries of first asylum, particularly in situations involving large-scale displacement. It also reflects the fact that refugee status is 'declaratory' – a refugee is a refugee as soon as he or she satisfies the criteria in fact, and is not dependent on recognition as such by UNHCR or government authorities.[140] On the other hand, what this means in practice is that UNHCR or other actors – for example, NGO staff facilitating complementary pathways – may end up conducting 'quasi' refugee status determination to assess eligibility for their programs, but without the requisite procedural standards and safeguards expected of states and UNHCR. This leads to the possibility that some of the limited places available under complementary pathways may be taken up by individuals who do not, in fact, qualify for international protection, or conversely, that someone who qualifies for international protection will be erroneously denied access to a complementary pathway.

As matter of law, and given that complementary pathways generally (and, arguably, ideally) sit within states' more general migration programs, it remains at the discretion of states to decide who to admit and according to what criteria. However, identifying precisely who has utilised complementary pathways is necessary for states' reporting on their complementary pathways commitments under the Global Compact on Refugees, and for assessing progress towards the numerical goals set out in the Three-Year Strategy on Resettlement and Complementary Pathways.[141] Even more importantly, prioritising those in need of international protection remains critical to achieving the core objectives of complementary pathways – namely, protection, durable solutions and international responsibility sharing. Where the resources and political goodwill available for complementary pathways are limited, access for individuals not in need of international protection reduces access for those who are.

The need for clear and principled eligibility criteria does not necessarily mean that formal, individual refugee status determination must be undertaken every time. The use of presumptions – for example, the presumption that Syrians living in Jordan and Lebanon are in need of international protection – may be entirely appropriate in light of conditions in countries of origin and/or first asylum, provided that are based on clear evidence and information (such as UNHCR country guidance) and are applied transparently and with appropriate safeguards within individual selection procedures. It does mean, however, that careful scrutiny of eligibility criteria and 'identification methodology'[142] – selection procedures used to determine access to complementary pathways – is necessary in assessing the extent to which such pathways uphold their objectives and/or states' international commitments and obligations.

Finally, beyond eligibility for international protection, whether and how vulnerability considerations may also be taken into account when selecting beneficiaries for complementary pathways remains open to discussion. Such considerations have been deemed inappropriate and counter-productive within at least some qualifications-based pathways.[143] Elsewhere, however, within community sponsorship or humanitarian admission programs, and even some education pathways,[144] there may be more scope for shaping complementary pathways to meet the needs of those refugees who are most vulnerable refugees and most in need of a solution.

4.1.3. Pathways to durable solutions

According to UNHCR, complementary pathways should allow refugees 'to potentially reach a sustainable and lasting solution'.[145] Some existing complementary pathways have durable solutions embedded within them. In Canada, for example, refugees under Community and Private Sponsorship programs are granted permanent residence on arrival.[146] However, obtaining guaranteed lasting solutions for refugees using complementary pathways is a particular challenge, given that labour mobility 'is often seasonal, circular, temporary and only sometimes leads to permanent residence'[147] and students visas are commonly valid only for the duration of the individual's studies. In some cases, temporary visas such as these may provide pathways to other options – for example, the option to transfer to a work visa following graduation.[148] However, such pathways are not usually guaranteed and may depend on meeting additional requirements, such obtaining a secure job. The durability of solutions provided by complementary pathways thus 'depends on the terms under which [they] are followed and the extent to which they are accessible.'[149]

On the one hand, the more limited form of durability provided by some complementary pathways could be viewed as an 'adaptation to modern conflict and displacement situations… [where the] paradigm of "irreversible exile" is in many cases no longer appropriate'.[150] Refugees, like other migrants, don't necessarily move 'one way' – circular migration, onward migration and return migration are all concept that reflect the multi-faceted and multi-staged nature of modern human mobility. Moreover, refugee protection is not necessarily intended to be permanent, but rather to provide 'rights-regarding protection for duration of risk'.[151] On the other hand, describing temporary complementary pathways as 'solutions' could 'mask failures to address the persistent precariousness facing the most marginalized refugees and other displaced populations.'[152]

Promoting durable solutions for refugees is of critical importance in refugee protection and one of the core objectives of complementary pathways. However, as Section 3 of this report set out, it is not the only objective. Insisting that complementary pathways guarantee access to permanent solutions may limit their potential uptake. It also fails to reflect the fact that the skills and experience gained during temporary admission and stay may assist refugees to access other opportunities, including more permanent legal status, and thus form part of a 'journey to a durable solution'.[153] Rather than insisting that complementary pathways guarantee refugees a durable solution, it may be worth considering what other protection safeguards could be provided – for example, access to asylum procedures, guaranteed return to the first country of asylum, or ongoing practical assistance[154] – to ensure that the rights of refugees utilising temporary pathways are respected and that

temporary pathways yield a net benefit to refugees in their search for a solution to their plight.

4.1.4. Preservation of asylum and fundamental human rights

As noted earlier in this report, the Refugee Compact does not provide the only guide to states' international commitments to provide complementary pathways for refugees. There are a range of other normative frameworks, both binding and non-binding, that set out minimum standards of treatment for refugees and others during their stay in countries of destination. These include the Refugee Convention, international human rights instruments such as the ICCPR and ICESCR, ILO Conventions, SDGs and the Migration Compact, as well as relevant regional instruments.[155]

Perhaps most importantly, complementary pathways must uphold the principle of non-refoulement, ensuring that no person is returned to a territory in which his or her life or freedom is threatened. This principle applies as a matter of customary international law – not only to refugees, as defined in relevant international and regional instruments, but also to individuals at risk of other forms of serious harm, as defined under international human rights law. While the principle of non-refoulement does not require a person to be given permanent legal status, it creates particular challenges within temporary complementary pathways for those who cannot return to their country of origin. In practice, the clearest way of preserving the principle of non-refoulement is by ensuring that those who travel under complementary pathways retain meaningful access to asylum in countries of destination. In countries of destination where asylum mechanisms are lacking or largely inefficient (for example, Japan) there may be other ways of preserving the principle of non-refoulement, such as guaranteeing the individual's right to return to first countries of first asylum,[156] or securing diplomatic assurances that they will not be returned to their country of origin.[157] The use of these alternative arrangements warrants significant caution however, to ensure that the protection from refoulement they provide is legally enforceable and not subject to removal at the whim of governments officials.[158] Moreover, even where complementary pathways *do* ensure individual access to asylum procedures in the destination country, further care must be taken to ensure that the asylum system provides sufficiently robust and that those awarded refugee status are able to access the assistance and support they need.[159]

4.1.5. Scalability

While some complementary pathways – namely, family reunification and humanitarian entry programs and visas, envisage the movement of significant numbers of people, other pathways – such as labour mobility and education pathways – provide access to third country solutions for only a very small number of refugees. Even relatively large programs, such as WUSC's Student Refuge Program, provide access to a tiny fraction of the refugees in need of third country solutions.[160] Since 2016, more than than 20,000 refugees have registered their qualifications, experience and interest in international employment with TBB's Talent Catalog,[161] yet only 127 have been matched with employers so far (and not all of those have actually travelled to the country of destination).[162] The apparent disparity between supply and demand for some complementary pathways reflects not only the number of places available, but also the complex administrative and logistical challenges associated with securing refugees' access to such pathways, including difficulties accessing relevant documentation and establishing prior experience and

requisite language skills. Notably, some complementary pathways actually face challenges identifying a suitable number of candidates. For example, JICUF has had considerable difficulties recruiting suitably qualified applicants for just two refugee education places per year in Japan. Some of the possible reasons for this include challenges in identifying applicants with the requisite level of English language skills, and limited interest among refugees in undertaking education in Japan.[163] As a result of these challenges, JICUF has expanded the eligibility criteria for its program to include Syrians who already have Turkish citizenship (and therefore already a durable solution).[164]

The small scale of complementary pathways is therefore not necessarily a reflection of the preliminary stages that many complementary pathways are at. In some cases, it may reflect a mismatch between complementary pathways and the needs and qualifications of refugees. In others, it is the result of the very resource-intensive nature of securing complementary pathways for individual refugees. In theory, by 'allowing refugees to access new and existing pathways autonomously, third country solutions for refugees can be achieved on a greater scale'.[165] In practice, however, providing access to refugees for complementary pathways may be more intensive than regular resettlement. Establishing new complementary pathways can require many years of engagement and negotiation to open the way for even a very small number of refugees. Even then, in the absence of any systematic programmes to support refugees, the barriers to access and tailored adjustments needed to facilitate access to these pathways can require further extensive advocacy and negotiation. As just one example of the kind of individualised negotiations required, TBB reports negotiating with local professional regulatory bodies in Australia to allow a Palestinian physiotherapist to be licensed in Australia despite not meeting their formal requirements.[166]

Yet, scalability is essential if complementary pathways are to meaningfully contribute to international responsibility sharing in the protection of refugees. Existing complementary pathways suggest some options for how scalability might be achieved, though further examination and consideration of these is required to assess the opportunities and limits they present. For example, TBB's current negotiation of a Labor Agreement with the Australian government could allow for automated waivers of a number of common barriers faced by refugees in accessing skilled labour migration programs, including documentation requirements, accepted skills and qualification verification procedures and language requirements.[167] JICUF and others are currently exploring the possibility of establishing a consortium of universities in the Asian region that could coordinate streamlined recruitment of refugee students to the region.[168]

Ultimately, complementary pathways that serve only a small number, or even just a few, refugees contribute positive outcomes and should not be discouraged. However, if complementary pathways are to provide a tool for protection and solutions on par with (or beyond) that of resettlement, pursuing mechanisms and processes that allow for increases in scale should be a central goal of efforts towards their development and implementation.

4.1.6. Independent access for refugees

Related to scalability is the question of whether refugees can, or should, be able to access complementary pathways independently of any assistance or intervention by others, including UNHCR. To date, discussions regarding complementary pathways have centred largely on specific migration channels or pathways for which access for refugees is

facilitated by UNHCR or other refugee organisations.[169] However, there is evidence that at least some refugees access education, labour and family reunification pathways independently of any such assistance. A joint study by OECD and UNHCR shows that between 2010 and 2017, a total of 566,900 nationals from five major refugee-producing countries (Afghanistan, Eritrea, Iraq, Somalia and Syria) entered OECD countries using work, education or family-related permits.[170] While not all of these people were necessarily refugees, as the report notes, '[i]t can be assumed… that a large number of individuals among the five refugee populations reviewed would meet the refugee criteria under international law or have a well-founded refugee claim.'[171]

Ensuring adequate protection safeguards is a particular challenge for refugees who travel this way. On the one hand, complementary pathways that refugees can access independently of any assistance by UNHCR or other non-governmental organisation provide the 'gold standard' in sustainability and promoting refugee self-reliance. The experiences of refugees who have accessed such pathways may also provide valuable lessons for those wishing to develop and expand more targeted, facilitated complementary pathways. On the other hand, the absence of any independent oversight or refugee-specific protection safeguards increases the risk that such pathways may fail to meet states' international obligations towards refugees or expose them to exploitation of other harm.

UNHCR's Key Considerations definition of 'complementary pathways' says nothing about the manner in which refugees access such pathways, and indeed it acknowledges that one of the potential benefits of complementary pathways is that 'refugees are able to exercise control over their own solutions by accessing them independently using publicly available information and processes'.[172] It is perhaps unrealistic to imagine that complementary pathways – most of which are designed for other purposes and without the predicament or needs of refugees in mind – will provide widespread access to protection and solutions for refugees without significant intervention and assistance from governments, UNHCR or other advocates. Nevertheless, the ultimate goal in the development of complementary pathways should be to establish systems and mechanisms that do not require ongoing negotiation and adjustment for individual cases, but are sufficiently flexible and accessible for refugees to access directly.

4.1.7. Transparency and Accountability

One of the potential advantages of complementary pathways is that they provide an opportunity for other actors – including employers, educational institutions, churches and community groups – to contribute to furthering the goals of refugee protection. This not only reduces the burden on governments, increasing capacity and opportunities for refugees to access protection and durable solutions, but also has potential broader impacts on the openness and willingness of communities to accept and welcome refugees. However, the increasing role of private actors in refugee protection has also been criticised as a move toward 'the privatisation of state responsibility'[173] and attempts by governments to 'offload' their protection responsibilities.[174]

One of the particular issues raised by the involvement of private actors in complementary pathways is that they are not subject to the same obligations, nor do they face (usually) the same level of scrutiny or accountability as governments and UNHCR. For example, employers, educational institutions and faith-based organisations participating in complementary pathways do not bear the same obligations as states and UNHCR under international refugee and human rights law. The implementation of protection safeguards and human rights standards in the domestic legislation of destination states is therefore critical to ensuring that refugees' rights are guaranteed at the national level, as are accountability mechanisms for ensuring that they are upheld in practice. Private actors operating in countries of first asylum must also be held accountable for their role in selecting and supporting refugees to travel using complementary pathways. This is not always the case in practice. For example, faith-based organisations facilitating Italy's humanitarian corridors are given a degree of flexibility by the Italian government in selecting beneficiaries for the program. While in theory, such selection occurs 'independently from their ethnic or religious belonging',[175] the use of transnational religious networks in the selection process means that further scrutiny is warranted to fully assess whether this remains the case in practice.[176]

On the one hand, it must be accepted that complementary pathways are not based primarily on legal obligations and that private actors are entitled to select future employees, students and even community members according to their own priorities and criteria. On the other hand, the involvement of private actors in processes, such as migration, that are traditionally associated with governments risks blurring the lines between governments and others and may have implications on the ground, particularly within refugee communities in countries of first asylum, where the different roles and obligations of each may not always be clear. Particularly where private actors are involved in selecting beneficiaries of complementary pathways, careful thought must be given the criteria and identification methodology they use, how these are communicated to stakeholders, including refugees themselves, and how to ensure that this does not undermine the integrity or objectives of complementary pathways.

4.2 Issues and questions for further consideration

Complementary pathways have the potential to yield a wide range of benefits for refugees – including access to employment, education, protection and durable solutions. Ensuring that they do so, however, depends on the ways in which they are developed and implemented. Here, according to a well-known maxim, the devil really is in the detail. The criteria and identification methodology used for selecting beneficiaries for a particular complementary pathways the longer term options for refugees who access that pathway and the engagement of private actors in various stages of the process can all affect whether, and to what extent, complementary pathways fulfil their core goals of promoting protection, durable solutions and international responsibility sharing.

This report proposes that, rather than focus on the meaning of terms, or what 'counts' as a complementary pathway, a set of standards be adopted by which complementary pathways can be measured and assessed. This approach could incorporate specified minimum thresholds or standards – for example, the preservation of asylum or principle of additionality – to make it clear when a particular complementary pathway does not adhere

to fundamental human rights standards. However, a holistic assessment of complementary pathways according to a more nuanced set of standards remains important given the diversity in different types of complementary pathways and the multiple, and varied, factors that affect the extent to which complementary pathways promote their objectives and uphold states' international commitments and obligations.

To this end, a number of questions warrant further consideration.

How should complementary pathways be developed and implemented?
Key issues and questions

1. What standards are required to ensure that complementary pathways uphold their objectives and states' international commitments and obligations? How can the need for 'minimum standards' be balanced with efforts towards more progressive development in the objectives of complementary pathways?
2. What obligations do non-state actors have in the facilitation of complementary pathways? What is their role in ensuring that complementary pathways meet relevant standards?
3. How can relevant standards be communicated to states and other actors? What monitoring mechanisms are required to maintain 'quality control' over complementary pathways and ensure that refugees accessing them are fully informed of the potential benefits and/or risks they entail?

5 Conclusion

Complementary pathways provide an opportunity for refugees stuck in overburdened first countries of asylum to access protection and solutions in third countries, and a practical alternative to resettlement for those refugees who cannot return home or integrate locally where they are. The recent adoption of the Global Compact on Refugees, and current efforts by UNHCR and others to encourage states to develop, implement and expand complementary pathways, provide the impetus for considerable expansion in the number of refugees for whom complementary pathways are a viable option. As an alternative to resettlement, complementary pathways have the potential to provide refugees with protection and durable solutions, and to promote international solidarity and responsibility-sharing among states in the protection of refugees. These are not the only benefits, as complementary pathways could also reduce irregular migration, promote refugee self-reliance, address current skill and labour shortages in countries of destination and foster positive public attitudes to refugees within host communities.

Realising the many potential benefits of complementary pathways is not necessarily straightforward. It involves balancing the sometimes competing imperatives to maximise the benefits of complementary pathways for refugees, engage governments and other stakeholders in the provision of complementary pathways, and create opportunities for protection and solutions where efforts at increasing resettlement may have failed.

The multiple interests and issues that arise in relation to complementary pathways mean that clarity in relation to what complementary pathways are, why they should be increased, and how states should go about establishing or expanding them, is critical. This report has provided a preliminary response to each of these questions, setting out and analysing key issues and responses, and outlining the issues and questions that require further consideration. This report thus provides a starting point, or conceptual framework, for further discussions regarding complementary pathways among governments, UNHCR and other stakeholders, including employers, educational institutions, communities and refugees themselves.

Appendix: Case Studies

The following case studies provide a more detailed analysis of four specific complementary pathways. An overview is provided for each case study, followed by a discussion of key features or characteristics of the pathway that illuminate the extent to which it serves some of the objectives and standards relating to complementary pathways discussed in this report. These case studies have been selected because they capture some of the diversity of complementary pathways available, including differences in scale, structure, actors and operational context. The analyses here are necessarily brief and do not address all of the relevant objectives and standards relating to complementary pathways. Nevertheless, they do provide an illustration of how the detailed characteristics of specific pathways relate to broader objectives, frameworks and issues discussed in this report.

A. Japan International Christian University Foundation (JICUF) Syrian Scholars Initiative[177]

Overview

In 2017, the Japan International Christian University Foundation (JICUF) established the Syrian Scholars Initiative, which provides 'a full scholarship that supports Syrian students who were displaced by the conflict throughout their entire undergraduate education at [the International Christian University]' – a private liberal arts college in Tokyo.[178] The initiative supports two students per year and application is open to Syrian nationals living in Turkey who fulfil the basic criteria for entry into the college – including having graduated from high school and having verified English language skills.[179] Shortlisted applicants are interviewed in Turkey, before the final selection is made by ICU. Successful applicants are provided with full scholarships to cover expenses, housing, tuition, healthcare, visa and travel costs.[180]

Refugees selected to study in Japan are supported by JICUF to apply for a regular student visa to Japan. This support includes financial assistance to apply for a passport (which many Syrians are able to obtain in Turkey, though at significant cost). Some refugees have also received assistance in having their English language skills verified. The student visa is temporary – valid for an initial two years, but with automatic renewal for the duration of the course. However, students who obtain a job following their studies may apply to transfer to a work visa. No students have yet completed their studies since the program was established.

Objectives and standards

While JICUF's Syrian Students Initiative is small in scale, providing access to only two students per year, its successful establishment in a country that provides only very limited access to asylum or resettlement makes it a valuable case study for the future development of complementary pathways in contexts where resettlement is unlikely to occur.

Eligibility for JICUF's Syrian Students Initiative is open to Syrian nationals residing in Turkey. The initiative is based on Syria's status as 'the top source country of refugees'[181] and on the presumptive refugee status of Syrian nationals in Turkey. Applications are accepted only from single refugees with no dependants, due mainly to the limited funds available to support refugees during their stay in Japan. Turkey was selected as the source location due to JICUF's existing relationship with the Japanese Association for Refugees (JAR), who to assist with student recruitment in Turkey. Turkey does not undertake refugee status determination, but rather provides Syrians with a temporary residence card, called a 'kimlic'.

The student visa under which successful applicants travel to Japan is only temporary, and thus does not provide a **durable solution** on its own, though refugee students who obtain a job following their studies may apply to transfer to a work visa. Obtaining work in Japan has reportedly proved a major hurdle for refugee students lacking Japanese language skills. It is hoped that the refugee students entering via the JICUF program will be better placed to pursue this path owing to the inclusion of Japanese language training in the program and bilingual tuition at ICU.

Another key issue for JICUF's program is **preserving asylum** given Japan's lack of effective asylum system.[182] One way the program seeks to protect student refugees in the event that they are unable, or do not wish, to secure employment in Japan is by limiting the scope of the program to Syrian nationals, for whom the Japanese government is reportedly willing to provide humanitarian status, including access to public services and the right to work. For some refugees, another potential option if they are not able to remain in Japan following their studies is to return to Turkey. Indeed, for some Syrians, obtaining a university degree via JICUF's program is part of their progression to be able to apply for Turkish citizenship and thus part of the **journey towards a durable solution** in the first country of asylum. However, return to Turkey is not necessarily guaranteed for refugees accessing the JICUF program. While challenges in identifying suitable applicants from within Turkey's Syrian population – in particular, those who can obtain the high IELTS score required to study at ICU – have meant that JICUF accepts applications from Syrians who have already obtained permanent residence in Turkey (and therefore the right to return), this arguably undermines genuine **responsibility-sharing** and the goal of expanding third country solutions for refugees, by potentially providing pathways to refugees who have already secured a durable solution of local integration.[183]

Finally, JICUF is currently working with other educational partners to explore opportunities to scale up education pathways in the Asian region, for example by establishing a consortium of universities offering similar pathways that could collaborate in the recruitment of refugee students. This would be an effective way of **scaling up** the small program currently in place and providing access to a larger number of refugees. Given the low level of accession to the Refugee Convention in the region, however, questions regarding the preservation of asylum and minimum standards for complementary pathways will be important in this endeavour.

B. World University Service of Canada (WUSC) Student Refugee Program

Overview

The World University Service of Canada (WUSC) Student Refugee Program was established in 1978 and approximately 2,000 refugees have accessed the program since. Applicants travel to Canada as part of the country's more general sponsorship and resettlement program. The pathway does not provide a 'scholarship' per se, though tuition fee reductions or waivers are often provided as 'in kind' support within the sponsorship framework and refugee students are supported by local WUSC groups around the country. Applicants must be accepted to study by a participating educational institution, but the final decision regarding entry lies with Canadian immigration officials.[184]

Objectives and standards

Eligibility for WUSC's Student Refugee Program is open to recognised refugees who have been living in Jordan, Kenya, Lebanon, Malawi, Tanzania or Uganda for at least three years prior to application and who face barriers accessing post-secondary education in their host country.[185] Applicants must be aged 18-25, single with no dependants, and competent in English or French. Recruitment is supported by UNHCR, who conduct refugee status verification and identify priority populations for selection within the program. Unlike many complementary pathways, WUSC's Student Refugee Program provides a limited role for vulnerability considerations in its selection process, by providing concessions to specific 'priority populations'. For example, lower academic and language criteria are applied for young women, who face additional they face in accessing higher education in developing countries.[186]

Because WUSC students travel to Canada as part of the country's more general sponsorship and resettlement program, they are granted permanent residence on arrival and thus benefit immediately from a **durable solution**. Refugee students are support by WUSC Local Committees at universities and colleges across the country who also assist with providing settlement and integration support. Permanent residency provides the potential opportunity for students to sponsor their family members in the future, and to access citizenship after a period of three years. In essence, WUSC's program is structure along the same lines as resettlement, but with added educational criteria and benefits built in. On the one hand, it represents the 'gold standard' in complementary pathways – securing all of the various objectives and entailing few of the risks. On the other, the program's establishment arguably depends on the strength of Canada's more general resettlement and sponsorship programs, which may make replicating the WUSC model elsewhere difficult.

C. Talent Beyond Boundaries – Labour Mobility for Refugees in Australia[187]

Overview

In 2016, Talent Beyond Boundaries (TBB) launched 'Talent Catalog' – an online registration system for refugees interested in pursuing international labour opportunities. Using the Talent Catalog, TBB has connected 127 refugees with employment opportunities in Australia and Canada.[188] In both countries, TBB's programs comprise two main components – 'skills matching' refugees with potential employers (including a full recruitment service incorporating interviews, testing and skills validation) and assistance to applicants and employers with the country of destination's migration processes.[189] TBB's Australian programs provide a particularly useful perspective into the different models of labour mobility that might be developed, and the respective merits of each.

During the early pilot phases of TBB's Australian programs, refugees matched with Australian employers were supported to apply for either a place within Australia's regular resettlement program,[190] or a short-term work visa.[191] TBB's current work, however, is focused on securing access for refugees to Australia's skilled migration program, in a program that allows 'businesses the ability to sponsor candidates identified by TBB for a number of skilled visas under more flexible arrangements that address some of the barriers encountered in the phase 1 pilot.'[192] which would provide permanent legal status and more substantial practical support (for example, with education and healthcare) than the alternatives.[193] As part of this, TBB is currently negotiating with the Australian government to secure some modifications to the skilled migration entry requirements for refugees via a unique 'Labour Agreement', which would streamline refugee waivers in relation to a number of administrative requirements, including documentation requirements, formal skills validation and even language requirements, where refugees have language skills deemed sufficient by the employer.[194]

Objectives and Standards

Eligibility for TBB's labour mobility programs is open to 'persons in need of international protection',[195] including 'refugees, people seeking asylum, people fleeing conflict and generalized violence and people who are stateless'.[196] Formal recognition of refugee status is not required for Syrian candidates as 'there are many valid reasons refugees are prevented from or opt not to register with the UN'.[197] In practice, eligibility is based on the presumption that Syrians residing in Jordan and Lebanon are refugees due to conditions in the country of origin.[198] Beyond this eligibility threshold, there are no vulnerability considerations in place, and indeed TBB has been explicit in its opposition to incorporating vulnerability assessments into the recruitment process, because 'employers do not recruit on vulnerability grounds. They recruit for skills.'[199]

Where refugees matched with Australian employers travelled to Australia under Australia's regular refugee resettlement program, this complementary pathways failed the **additionality** requirement, by effectively taking away resettlement places from more vulnerable refugees. TBB recognises this, and has emphasised that 'in order to maintain the integrity and humanitarian intent of the humanitarian program, skilled migration is a more logical pathway out of displacement for skilled refugees.'[200] Nevertheless, in

countries new to the idea of labour mobility for refugees, existing resettlement pathways can provide a readily available 'testing ground' and an opportunity to demonstrate the value of complementary pathways such as labour mobility to both governments and employers.[201]

The desire to provide refugees with **durable solutions** is another reason for TBB's current emphasis on developing permanent skilled migration pathways for refugees to Australia. In the pilot phase of this project, refugees who accessed employment via temporary work visas faced a number of limitations, including lack of access to settlement services and significantly limited support for family members, who were not eligible for Medicare, free schooling and social safety nets.[202]

D. UNHCR-IRAP-RefugePoint Family Reunification Project for the Central Mediterranean Region[203]

Overview

In mid-2019, UNHCR, in partnership with the International Refugee Assistance Project (IRAP) and RefugePoint, established a special project aimed at facilitating access to family reunification pathways for children travelling in the Central Mediterranean region. The project assists at-risk children identified at key locations across northern Africa, and for whom family reunification is deemed to be in the best interests.[204] Unlike the previous case studies, which all focus on countries of destination, this project targets potential beneficiaries of family reunification pathways. The countries of destination thus vary depending on the location of beneficiaries' family members, with the main destination countries being Germany, Sweden, France and the USA.[205] In most countries of destination, family reunification pathways provide permanent residence to beneficiaries. The more challenging aspect of family reunification for refugees is the various legal and practical hurdles that must be crossed in order to secure their right to family reunification.[206] The Central Mediterranean Family Reunification Project includes deployment of expert UNHCR staff in six locations across northern Africa. These staff provides 'resource-intensive' family reunification case management for beneficiaries, in cooperation with numerous lawyers, NGOs and pro bono partners across Africa, Europe and North America.[207]

In contrast to most other complementary pathways, family reunification programs are directed at securing the 'right' of refugees in third countries to reunite with their immediate families, who may remain stuck in first countries of asylum or even countries of origin. In practice, however, the obstacles faced by refugees in accessing family reunification pathways are largely the same as those faced by refugees accessing other migration pathways. These include: lack of accurate information onerous documentation requirements, high fees, long delays and lack of legal or other assistance to apply for family reunification.[208] In addition to supporting individual children to access family reunification, this project also supports 'advocacy efforts to change structural barriers to [family reunification] which disproportionally impact refugees'.[209]

Objectives and Standards

In Europe and the United States, family reunification pathways are generally separate from, and therefore **additional** to, refugee resettlement. **Eligibility** for family reunification depends on each country of destination's respective criteria, but generally includes immediate family members of persons lawfully residing in that country. Thus, the eligibility of an individual beneficiary of this complementary pathways usually depends not on his or her own refugee status but on that of their family members residing in the country of destination. To qualify for assistance from the Central Mediterranean Family Reunification Project, potential beneficiaries of this pathway must meet two additional criteria set by the project itself – first, they are deemed to be 'at risk' children, and second, that family reunification is in their best interests. This demonstrates that, even where criteria for access to complementary pathways per se do not incorporate vulnerability considerations, prioritising assistance for the most vulnerable by UNHCR and others provides another assistance means of promoting access to complementary pathways for the most vulnerable.

Where family reunification provides a pathway to permanent residence it is a **durable solution** in itself. Not all family reunification pathways provide this, however. For example, in some countries, family reunification for those holding temporary protected status entails only temporary status for family members who travel under family reunification pathways.

The biggest challenge to securing complementary pathways via this project is not the formal criteria or benefits such pathways entail, but rather the bureaucratic hurdles faced by refugees seeking to access them. Individuals frequently require extensive and tailored case management and support to address the specific needs and situation of refugees and to navigate that legal and administrative intricacies of individual countries' family reunification programs, each of which has its own administrative requirements and requires expert knowledge and advice.[210]

E. Humanitarian Corridors in Italy[211]

Overview

In 2015, an ecumenical coalition of faith-based organisations, including the Federation of Evangelical Churches in Italy (FCEI), the Waldensian and Methodist Churches, and the Community of Sant'Egidio entered into an agreement with the Italian Government to facilitate Humanitarian Corridors facilitating travel and entry into Italy for mainly Syrian refugees for the purposes of applying for asylum.[212] Under the program, representatives of faith-based organisations meet with refugees residing Lebanon to identify candidates for travel to Italy. Refugees admitted into the program are subject to security checks by the Lebanese government (for the issue of exit permit), as well as well as pre-admission security checks by the Italian government. Under the Humanitarian Corridors agreement, refugee status determination is not a formal requirement for participation in the program.

Under the Italian 'Humanitarian Corridors' program, refugees travel to Italy on visas issued under Article 25 of the European Union 'Visa Code', which provides for the exceptional use of short stay visas by European states where it is considered necessary on humanitarian grounds.[213] Such visas have limited territorial validity, meaning that refugees travelling to

Italy under Humanitarian Corridors cannot travel elsewhere in Europe.[214] Refugees arriving in Europe are supported by Italian faith-based and civil society organisations to apply for refugee protection and are provided with social assistance and support during their initial period of stay in Italy. Italy's Humanitarian Corridors have already been replicated elsewhere in Europe, including France, Belgium and Andorra.[215]

Objectives and standards

Eligibility for Italy's Humanitarian Corridor depends on recognition by UNHCR as a refugee. To date, this has been relatively straightforward given the program's focus on Syrian refugees. While the organisers of the program aim to also take into account the vulnerability of potential participants, they also emphasise that the program will not necessarily be in the best interests of all refugees. Given the limited social security and settlement supports provided even to recognised refugees in Italy, some of the most vulnerable refugees may in fact be better off remaining in Lebanon, particularly if they benefit from the social protection provided by their existing networks there.[216]

Because the humanitarian corridors program facilitates access to formal refugee status procedures in the country of destination, the **preservation of asylum** and provision of **durable solutions** to their displacement are achieved, at least in theory. It is worth noting, however, that the standards of treatment afford to recognised refugees in Italy are considered to be lower than those of many other European states, and indeed have been criticised for failing to meet the minimum standards required by the 1951 Refugee Convention. In addition, should the program expand beyond Syrian refugees to include Humanitarian Corridors from countries such as Niger and Libya, further measures may be required to ensure that those who travel to Italy are not at risk of refoulement should their claim for asylum be rejected.

One of the chief benefits of Humanitarian Corridors is the facilitation **safe, orderly and regular migration** as a pathway to protection. Indeed, the main purposes of the Humanitarian Corridors include 'to prevent the death of refugees trying to cross the Mediterranean by boat [and] combat the deadly business of smugglers and human traffickers'.[217] By facilitating lawful travel using short stay visas designed specifically for humanitarian purposes, Humanitarian Corridors directly reduce the need for refugees to undertake dangerous journeys in search of safety and long-term solutions.

Endnotes

[1] UNHCR, *Report of the United Nations High Commissioner for Refugees: Part II: Global compact on refugees*, UN GAOR, 73rd sess, Supp No 12, UN Doc A/73/12 (13 September 2018) (Refugee Compact) para 7.
[2] Refugee Compact, para 95.
[3] Refugee Compact, para 94.
[4] UNHCR, 'The Three-Year Strategy (2019-2021) on Resettlement and Complementary Pathways' (June 2019) 7.
[5] Refugee Compact, para 95
[6] Refugee Compact, para 7; see also UNHCR, Complementary Pathways for Admission of Refugees to Third Countries: Key Considerations' (April 2019) (Key Considerations) 6.
[7] European Centre for the Development of Vocational Training (CEDEFOP), 'Creating lawful opportunities for adult refugee labour market mobility: A conceptual framework for a VET, skills and qualifications-based complementary pathway to protection' (2019) 21.
[8] Amnesty International, 'Written Submission of Amnesty International to the Global Compact on Refugees' (undated) <https://www.unhcr.org/en-au/events/conferences/5a43af567/written-submission-amnesty-international-global-compact-refugees.html> 3.
[9] International Labour Organization, 'The access of refugees and other forcibly displaced persons to the labour market' Background paper and draft ILO guiding principles for discussion at the ILO tripartite technical meeting on the access of refugees and other forcibly displaced persons to the labour market (Geneva, 5–7 July 2016) (2016) 29.
[10] See, eg, Amnesty International (n 8); International Labour Organization (ILO), 'Guiding principles on the access of refugees and other forcibly displaced persons to the labour market' adopted at the adopted by the Tripartite Technical Meeting on the Access of Refugees and other Forcibly Displaced Persons to the Labour Market (Geneva, 5-7 July 2016) (ILO Guiding Principles); International Organization for Migration (IOM), 'Complementary Pathways' (undated) <https://eea.iom.int/complementary-pathways>; European Commission, 'Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe' Communication from the Commission to the European Parliament and the Council' (Brussels, 6 April 2016).
[11] Amnesty International (n 8).
[12] ILO Guiding Principles (n 10) para 31.
[13] European Commission (n 10) 2.
[14] UNHCR, Three-Year Strategy (n 4) 22.
[15] Sayre Nyce, Mary Louise Cohen and Bruce Cohen, 'Labour mobility as part of the solution' 52 *Forced Migration Review* 31, 32.
[16] UNHCR, Three-Year Strategy (n 4) 22.
[17] Megan Bradley, 'Resolving Refugee Situations: Seeking Solutions Worthy of the Name' World Refugee Council Research Paper No. 9 (March 2019) 6.
[18] Ibid, 7.
[19] UNHCR, Three-Year Strategy (n 4) 10.
[20] Ibid, 6. This goal is to be achieved via incremental increases of 20,000 persons per year admitted via complementary pathways over a ten-year period (from 2019-2028).
[21] Ibid.
[22] For example, this was a topic of discussion during a recent UNHCR-hosted roundtable. 'Understanding Complementary Pathways for Admission to Third Countries: Roundtable on Key Concepts' (9 June 2020; 11 June 2020) (UNHCR Complementary Pathways Roundtable).
[23] See generally UNHCR, Key Considerations (n 6) 11.
[24] Ibid, 8.
[25] See also UNHCR, 'Guidelines on Temporary Protection or Stay Arrangements' (February 2014).
[26] See UNHCR, Key Considerations (n 6) 9.
[27] See 'Alternative Refugee Pathways: Protected Entry Schemes' Andrew & Renata Kaldor Centre for International Refugee Law factsheet (8 October 2018) <https://www.kaldorcentre.unsw.edu.au/publication/incountry-processing-and-other-protected-entry-procedures>.
[28] See generally Claire Higgins, 'Safe Journeys and Sound Policy: Expanding protected entry for refugees' Kaldor Centre for International Refugee Law Policy Brief 8 (November 2019).
[29] Claire Higgins, 'Humanitarian corridors: Safe passage but only for a few' Lowy Interpreter (4 August 2017)

[30] UNHCR, 'Key Considerations' (n 6) 8. See generally Global Refugee Sponsorship Initiative, 'Community Sponsorship' (undated) <http://refugeesponsorship.org/community-sponsorship>.
[31] Susan Fratzke, Lena Kainz, Hanne Beirens, Emma Dorst, and Jessica Bolter, 'Refugee Sponsorship Programmes A Global State of Play and Opportunities for Investment' Migration Policy Institute Europe Policy Brief No. 15 (December 2019) 2.
[32] Ibid.
[33] See Appendix 1, Case Studies B and E.
[34] Ibid, 3-5
[35] See UNHCR, Key Considerations (n 6) 10.
[36] See *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 23; UN Human Rights Committee, 'CCPR General Comment No. 19: Article 23 (The Family) Protection of the Family, the Right to Marriage and Equality of the Spouses' (27 July 1990) para 5; *Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons*, 189 UNTS 137 (25 July 1951) Recommendation B. See generally Frances Nicholson, 'The "Essential Right" to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification' (UNHCR, 2nd ed, January 2018).
[37] Family reunification is one of UNHCR's formal resettlement submission categories. UNHCR, *UNHCR Resettlement Handbook* (revised 2011) 243.
[38] See generally Nicholson (n 36); Kate Jastram and Kathleen Newland, 'Family Unity and Refugee Protection' in Erika Feller, Volker Türk and Frances Nicholson (eds), *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection* (CUP, 2003); UNHCR, 'Central Mediterranean Family Reunification Project Information Sheet & Contact List for UNHCR Country Office and Legal Practitioners' (April 2020). See also Appendix 1, Section D.
[39] See Appendix 1, Case Study D.
[40] Jastram and Newland (n 38) 572.
[41] UNHCR, Key Considerations (n 6) 10.
[42] Ibid.
[43] See eg Talent Beyond Boundaries, 'A Skills-Based Solution: Opening Canada's Economic Pathways to Refugees' Brief Submitted by Talent Beyond Boundaries to the Parliamentary Standing Committee on Citizenship and Immigration (CIMM) (December 2018) 3.
[44] Nyce et al (n 15) 32.
[45] See further, section 4.1 below.
[46] See Appendix 1, section C.
[47] Conversation between the author and Aki Takada, Associate Director, Japan ICU Foundation (25 June 2020). See further Appendix 1, Section A.
[48] WUSC Student Refugee Program, 'Potential Sponsored Students' (undated) <https://srp.wusc.ca/students/>. See Appendix 1, Section B.
[49] See generally UNHCR, 'Complementary pathways through education' (undated) <https://www.unhcr.org/en-au/complementary-pathways-through-education.html>.
[50] OECD-UNHCR, 'Safe Pathways for Refugees: OECD-UNHCR Study on third country solutions for refugees: family reunification, study programmes and labour mobility' (December 2018) 6.
[51] See Appendix 1, Section B.
[52] See Appendix 1, Section A.
[53] Ibid.
[54] UNHCR 'More resettlement needed as only 4.5 per cent of global resettlement needs met in 2019' (6 February 2020) <https://www.unhcr.org/news/press/2020/2/5e3a81c04/resettlement-needed-only-45-cent-global-resettlement-needs-met-2019.html>.
[55] Ibid.
[56] Refugee Compact, para 7; see also UNHCR, Key Considerations (n 6) 6.
[57] Global Compact for Safe, Orderly and Regular Migration, UN General Assembly Resolution 73/195 (19 December 2018) (Migration Compact) objective 5.
[58] Migration Compact, para 21(g).
[59] See generally Jane McAdam and Tamara Wood, 'The Concept of 'International Protection' in the Global Compacts on Refugees and Migration' (forthcoming, 2020) *Interventions: International Journal of Postcolonial Studies*.
[60] Refugee Convention, preambular para 4.
[61] Refugee Convention, art 35(1).
[62] Refugee status is 'declaratory', meaning refugees acquire the rights as soon as they meet the definition as a matter of fact. See UNHCR, 'Note on Determination of Refugee Status under International Instruments' (24 August 1977) para 5.

[63] ICCPR; *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) (ICESCR).
[64] See eg UN Human Rights Committee, 'General Comment No. 15: The Position of Aliens under the Covenant' (11 April 1986) esp para 2.
[65] ILO Guiding Principles (n 10) para 32.
[66] 'Transforming our world: the 2030 Agenda for Sustainable Development' UN General Assembly Resolution 70/1 (25 September 2015).
[67] See, eg, Petra Nahmias and Natalia Krynsky Baal, 'Including forced displacement in the SDGs: a new refugee indicator' (2 Dec 2019) <https://www.unhcr.org/blogs/including-forced-displacement-in-the-sdgs-a-new-refugee-indicator/>.
[68] Sustainable Development Goals 4 and 8.
[69] Sustainable Development Goal 3.
[70] Sustainable Development Goal 11.
[71] Sustainable Development Goal 17. See generally Nyce et al (n 15) 32.
[72] 1969 Convention, art II(4). See generally Tamara Wood, 'The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, Ch 2 in Satvinder in Juss (ed) *Research Handbook on International Refugee Law* (Elgar, 2019).
[73] See María José Marcogliese, 'The Solidarity Resettlement Programme, and alternatives, in Latin America' (2017) 54 *Forced Migration Review* 54
[74] European Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 1950, entered into force 3 September 1953) 213 UTS 222 (European Convention on Human Rights, ECHR).
[75] Charter of Fundamental Rights of the European Union [2012] OJ C326/391 (EU Charter)
[76] Council Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast) [2013] OJ L180/60.
[77] Draft report on the proposal for a regulation of the European Parliament and of the Council establishing a Union Resettlement Framework and amending Regulation (EU) No 516/2014 of the European Parliament and the Council, 2016/0025(COD) (23 March 2017)
[78] UNHCR, Key Considerations (n 6) 5
[79] See generally UNHCR, 'Frequently Asked Questions about Resettlement' (February 2017) <https://www.unhcr.org/en-au/56fa35b16>.
[80] UNHCR, Key Considerations (n 6) 7.
[81] See eg Katy Long, 'Extending protection? Labour migration and durable solutions for refugees' UNHCR New Issues in Refugee Research, Research Paper No. 176 (October 2009).
[82] See Appendix 1, Case Studies B and C.
[83] In some cases, an applicant is provided with a 'provisional' visa that leads directly to a permanent visa. See eg 'Partner visa (apply overseas)' Australian Government Department of Home Affairs: Immigration and Citizenship (22 April 2020) <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/partner-offshore>.
[84] Conversation with Aki Takada (n 47). See further below, Appendix 1, Section A.
[85] UNHCR, Key Considerations (n 6) 7.
[86] See Appendix 1, Case Study D.
[87] See Appendix 1, Case Study E.
[88] See UNHCR, Key Considerations (n 6) 7.
[89] Talent Beyond Boundaries, above n 43, 1.
[90] Talent Beyond Boundaries, 'Impact' (undated) <https://www.talentbeyondboundaries.org/impact>.
[91] Nyce et al (n 15) 32.
[92] According to Talent Beyond Boundaries (n 43), approximately 60% of refugees relocated under their labour mobility programs send remittances to family and/or friends at home.
[93] Ibid.
[94] Ibid.
[95] CEDEFOP (n 7) 49.
[96] Bradley (n 17) 7.
[97] Ibid; CEDEFOP (n 7) 49.
[98] UNHCR, Three-Year Strategy (n 4) 23.
[99] Refugee Compact, para 3.
[100] See eg Jastram and Newland (n 38) 558; UNHCR Key Considerations (n 6) 10.
[101] Nyce et al (n 15) 32.
[102] UNHCR Complementary Pathways Roundtable (n 22).
[103] Ibid.
[104] Ibid.

[105] Talent Beyond Boundaries (n 43) 2.
[106] Ibid.
[107] European Commission, 'Union Resettlement Framework' (December 2018) <https://ec.europa.eu/commission/sites/beta-political/files/factsheet_-_union_resettlement_framework.pdf>.
[108] IOM (n 10).
[109] European Commission (n 107) 14.
[110] Ibid.
[111] James C. Hathaway, 'A global solution to a global refugee crisis' Open Democracy (29 February 2016) <https://www.opendemocracy.net/en/openglobalrights-openpage/global-solution-to-global-refugee-crisis/>.
[112] See, eg, Talent Beyond Boundaries, 'The Promise of Labour Mobility: How skills can be a passport out of displacement for refugees' (December 2019).
[113] See eg Talent Beyond Boundaries (n 43); Talent Beyond Boundaries, 'Enhancing labour mobility for
refugees through Australia's Migration Program' Submission to the Department of Home Affairs, Australian Government responding to the discussion paper entitled Managing Australia's Migrant Intake (2 February 2018) 10-12.
[114] Global Forum on Migration and Development (GFMD) Business Mechanism, 'The Business Case for Migration' The GFMD Business Mechanism's Position Paper and Recommendations for Presentation at the Ninth GFMD Summit (December 2016) 20.
[115] UNHCR, 'Doubling Our Impact: Third Country Higher Education Pathways for Refugees' (February 2020) 8.. According to UNHCR, only 3 per cent of refugees have access to higher education. UNHCR, 'Stepping Up: Refugee Education in Crisis' (2019) 5.
[116] GFMD Business Mechanisms (n 114) 23.
[117] See further below, section 2.2.1.
[118] Talent Beyond Boundaries, 'Global Evaluation: Labour Mobility Pathways Pilot 2016-2019' (1 June 2020) 46.
[119] Ibid, 47.
[120] Ibid.
[121] Martin Ruhs, 'Can Labor Immigration Work for Refugees?' (2019) *Current History* 22, 23.
[122] Ibid.
[123] Expert Council of German Foundations on Integration and Migration, 'What Next for Global Refugee Policy? Opportunities and Limits of Resettlement at Global, European and National Levels' (2018) 22-23.
[124] UNHCR, 'Global Compact on Refugees Digital Platform' <https://globalcompactrefugees.org>.
[125] Ibid, Pledges and Contributions database (18 May 2020) <https://globalcompactrefugees.org/channel/pledges-contributions>.
[126] Ibid.
[127] UNHCR, Three-Year Strategy (n 4) 9.
[128] See eg UNHCR Complementary Pathways Roundtable (n 22).
[129] UNHCR, Three-Year Strategy (n 4) 15, emphasis added
[130] Ibid, Refugee Compact, para 95.
[131] European Migration Network, 'Resettlement and Humanitarian Admission Programmes in Europe – what works?' (November 2016) 25.
[132] Talent Beyond Boundaries (n 113) 8.
[133] See Australian Government Department of Home Affairs: Immigration and Citizenship, 'Global Special Humanitarian visa' <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/global-special-humanitarian-202>.
[134] Conversation between the author and Stephanie Cousins. Global Co-CEO and Australia and New Zealand Director, Talent Beyond Boundaries (24 June 2020).
[135] Conversation between the author and Giulia Gori, Federazione delle Chiese Evangeliche, Italia (15 October 2020). See further Appendix 1, Case Study E.
[136] See eg UNHCR, 'Complementary pathways for admission to third countries' (undated) <https://www.unhcr.org/en-au/complementary-pathways.html>.
[137] UNHCR Complementary Pathways Roundtable (n 22).
[138] See Appendix 1, Case Studies B and C.
[139] See Appendix 1, Case Studies A and C.
[140] See UNHCR (n 62).
[141] See Refugee Compact, para 47; Three-Year Strategy, p 5.
[142] See eg UNHCR Complementary Pathways Roundtable (n 22)

[143] See above, section 2.2.1.
[144] For example, Portugal's Global Platform for Syrian Students incorporates vulnerability considerations into their selection procedures. Conversation between the author and Helena Barroco, Diplomatic Adviser to President Jorge Sampaio, Global Platform for Syrian Students (30 June 2020).
[145] UNHCR, Key Considerations (n 6).
[146] See Appendix 1, Case Studies B and C.
[147] ILO (n 9) 27.
[148] This is the case in Japan and Portugal for students entering via education pathways. Conversations with Aki Takada (n 47) and Helena Barroco (n 144).
[149] Bradley (n 17) 7.
[150] Expert Council of German Foundations on Integration and Migration (n 123) 22-3.
[151] Hathaway (n 111).
[152] Bradley (n 17) 7.
[153] UNHCR Complementary Pathways Roundtable (n 22).
[154] For example, JICUF plans to assist graduates of its education program to obtain employment in Japan. Conversation with Aki Takada (n 47). UNHCR urges that education pathways should ensure the safe transit of students, a legal right to remain in third countries, and facilitated access to an asylum process. UNHCR, 'Doubling our Impact' (n 115) 14.
[155] See discussion above, section 3.1. One question warranting further consideration is the impact of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which does not apply to refugees (see art 3(d)).
[156] A number of Syrian nationals who have travelled to study in Japan as part of the JICUF's program reportedly intend to return to Turkey following their studies. Conversation with Aki Takada (n 47).
[157] The Japanese government has provided assurances to JICUF that Syrian students participating in their program will not be returned to Syria, though the legal status of these assurances is unclear. Conversation with Aki Takada (n 47).
[158] See generally, UNHCR 'UNHCR Note on Diplomatic Assurances and International Refugee Protection'(August 2006).
[159] For example, those working in Italy's Humanitarian Corridors note that the level of assistance available to recognised refugees in Italy is often lower than in other European states. See Appendix 1, Case Study E.
[160] Approximately 2,000 refugees have benefited from WUSC's program since it was established in 1978.
[161] https://www.talentbeyondboundaries.org/the-talent-catalog
[162] Talent Beyond Boundaries, 'Global Evaluation' (n 118) 47.
[163] Conversation with Aki Takada (n 47).
[164] See further Appendix 1, Case Study A. Though no Turkish citizens have yet been selected for the program, if they are, their existing citizenship may mean that the program no long constitutes a complementary pathway.
[165] UNHCR, Key Considerations (n 6) 5.
[166] Talent Beyond Boundaries, 'Global Evaluation' (n 118) 71.
[167] Conversation between the author and Stephanie Cousins. Global Co-CEO and Australia and New Zealand Director, Talent Beyond Boundaries (24 June 2020).
[168] Conversation with Aki Takada (n 47).
[169] For example, JICUF's program for Japan does not involve UNHCR but is facilitate by JICUF and JAR. See Appendix 1, Section A of this report.
[170] OECD-UNHCR (n 50) 13.
[171] Ibid, 11.
[172] UNHCR, Key Considerations (n 6) 5.
[173] See Expert Council of German Foundations on Integration and Migration (n 123) 23.
[174] For a general discussion in relation to Canada's private sponsorship programmes, see Labman and Pearlman, 'Blending, Bargaining, and Burden-Sharing: Canada's Resettlement Programs' (2018) 19(1) *Journal of International Migration and Integration* 439.
[175] Cited Susanna Trotta, 'Safe and Legal Passages to Europe: A Case Study of Faith-Based Humanitarian Corridors to Italy' UCL Migration Research Unit, Working Paper 2017/5 (2017) 22.
[176] Ibid 22-3.
[177] Except where otherwise indicated, information regarding this complementary pathway was obtained during a conversation Aki Takada (n 47).

[178] JICUF, 'Syrian Scholars Initiative' (undated) <https://www.jicuf.org/ssi/>. It is worth nothing that JICUF, who established the scholarship, is affiliated with the college but is a separate legal entity and is based in the United States.
[179] The program includes a minimum IELTS or TOEFL score and high school certificate, though copies of the latter will be accepted where the original is not available.
[180] JICUF (n 178).
[181] Ibid.
[182] See, eg, Japanese Association for Refugees, 'Why Japan recognizes only a few refugees? Institutional challenges' (10 September 2017)
[183] None of the successful applicants for the JICUF program so far have had Turkish citizenship.
[184] WUSC Student Refugee Program, 'Potential Sponsored Students' (undated) <https://srp.wusc.ca/students/>.
[185] Ibid.
[186] WUSC and UNHCR, 'Building Educational Pathways for Refugees: Mapping a Canadian Peer-to-Peer Support Model' (2017) 13, 25.
[187] Except where otherwise indicated, information regarding this complementary pathway was obtained during conversation with Stephanie Cousins (n 167).
[188] Talent Beyond Boundaries, 'Impact' (n 90).
[189] See eg Talent Beyond Boundaries, 'Linking Displaced Populations to Global Skill Gaps through Regular Labor Migration: A Practical Intervention to Advance Objective #5 of the Global Compact for Migration' Discussion Paper for Side Event at the Global Compact for Migration Adoption Conference Marrakesh, Morocco (December 2018) 6-7
[190] See Australian Government Department of Home Affairs: Immigration and Citizenship, 'Global Special Humanitarian visa' <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/global-special-humanitarian-202>.
[191] See Australian Government Department of Home Affairs: Immigration and Citizenship, 'Temporary Skills Shortage visa' < https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-skill-shortage-482#:~:text=Short%2Dterm%20stream,an%20appropriately%20skilled%20Australian%20worker.&text=You%20can%20stay%20for%20up,Trade%20Obligation%20(ITO)%20applies.>. See further Talent Beyond Boundaries, 'Global Evaluation' (n 118) 54.
[192] Ibid, 55.
[193] Ibid 56. Though still not the full suite of settlement services that resettled refugees are entitled to.
[194] Conversation with Stephanie Cousins (n 167).
[195] Talent Beyond Boundaries, 'Global Evaluation' (n 118) 64.
[196] Ibid.
[197] Ibid. Notably, this is different for TBB's programs in partnership with RefugePoint in eastern Africa, where presumptions of refugee status are less applicable and UNHCR recognition of refugees status is required. Conversation with Stephanie Cousins (n 167).
[198] Conversation with Stephanie Cousins (n 167).
[199] Talent Beyond Boundaries, 'Global Evaluation' (n 118) 65.
[200] Talent Beyond Boundaries, 'Australia Submission' (n 113) 8.
[201] According to TBB, 'learn lessons [from the CSP] could be applied to the skilled stream of the Migration Program'. Ibid, 5.
[202] Talent Beyond Boundaries, 'Global Evaluation' (n 118) 54
[203] Except where otherwise indicated, information regarding this complementary pathway was provided during conversation between the author and Sara Faust, Child Protection Officer, Office of the Special Envoy for the Central Mediterranean Situation, UNHCR (12 June 2020).
[204] The program includes a Best Interest Procedure prior to family reunification. Sara Faust, 'Central Mediterranean Family Reunification Project: Priority Situations Core Group' Presentation (5 May 2020).
[205] Ibid.
[206] See above section 2.1.
[207] Ibid; see also UNHCR, 'Central Mediterranean Family Reunification Project Information Sheet & Contact List for UNHCR Country Office and Legal Practitioners' (April 2020). Top countries of destination are Germany, Sweden, France and the USA.
[208] See generally Nicholson (n 36) esp sections 4 and 5.
[209] Faust (n 204).
[210] Conversation with Sara Faust (n 203).

[211] Except where otherwise indicated, information regarding this complementary pathway was provided during a conversation between the author and Giulia Gori, Federazione delle Chiese Evangeliche in Italia (15 October 2020)
[212] See Mediterranean Hope, 'How do humanitarian corridors work? An Italian ecumenical project signals hope for Europe' (December 2016); Claire Higgins, 'Safe Journeys and Sound Policy: Expanding protected entry for refugees' Kaldor Centre for International Refugee Law, Policy Brief 8 (November 2019) esp 16.
[213] Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), Art 25.
[214] Ibid, Art 25(2).
[215] Higgins (n 212) 16.
[216] Conversation with Giulia Gori (n 211).
[217] Mediterranean Hope (n 212) 1.